

MONTANA LEGISLATIVE HISTORY

Chapter 763 1991

Bill H 973 S _____ Original bill & history ✓ C

H. Committee on Taxation

Hearing Date(s) 3-14 _____ C

_____ C

_____ C

_____ C

Date Out 3-22 _____ C

S. Committee on Taxation

Hearing Date(s) 4-10 _____ C

4-12 _____ C

_____ C

_____ C

DATE OUT 4-12

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

The Law Library has no minutes for House or Senate
Natural Resources, or the Free Conference Committee.

The Historical Society has all original minutes. 406-
4244-2681.

HB 971

HOUSE FINAL STATUS

4/15	2ND READING CONCURRED	48	0
4/16	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/18	2ND READING AMENDMENTS CONCURRED	96	3
4/19	3RD READING AMENDMENTS CONCURRED	95	3
4/23	SIGNED BY SPEAKER		
4/23	SIGNED BY PRESIDENT		
4/23	TRANSMITTED TO GOVERNOR		
4/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 694		
	EFFECTIVE DATE: 4/27/91		

HB 971 INTRODUCED BY COHEN

MONTANA FOREST RESOURCES MANAGEMENT ACT

2/23	INTRODUCED
2/23	REFERRED TO TAXATION
2/23	FIRST READING
2/23	FISCAL NOTE REQUESTED
3/05	REFERRED TO NATURAL RESOURCES
3/08	FISCAL NOTE RECEIVED
3/21	HEARING
3/27	TABLED IN COMMITTEE

HB 972 INTRODUCED BY SIMPKINS, ET AL.

PROPERTY TAX RELIEF FOR PURCHASE
OF PRINTING EQUIPMENT

2/23	INTRODUCED
2/23	REFERRED TO TAXATION
2/23	FIRST READING
2/25	FISCAL NOTE REQUESTED
3/05	FISCAL NOTE PRINTED
3/05	FISCAL NOTE RECEIVED
3/22	HEARING
3/27	TABLED IN COMMITTEE

HB 973 INTRODUCED BY STANG, ET AL.

CREATE A SMALL PETROLEUM TANK RELEASE
CLEANUP FUND AND SPECIAL FUELS FEE

2/26	INTRODUCED		
2/26	REFERRED TO NATURAL RESOURCES		
2/26	FIRST READING		
2/26	FISCAL NOTE REQUESTED		
3/05	REFERRED TO TAXATION		
3/08	FISCAL NOTE RECEIVED		
3/11	FISCAL NOTE PRINTED		
3/14	HEARING		
3/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
4/01	2ND READING PASSED	69	31
4/03	3RD READING PASSED	74	26
	TRANSMITTED TO SENATE		
4/04	FIRST READING		
4/04	REFERRED TO NATURAL RESOURCES		
4/05	REFERRED TO TAXATION		
4/10	HEARING		
4/12	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/16	2ND READING CONCURRED AS AMENDED	39	10
4/17	3RD READING CONCURRED	37	12
	RETURNED TO HOUSE WITH AMENDMENTS		
4/18	2ND READING AMENDMENTS NOT CONCURRED	99	0
4/19	CONFERENCE COMMITTEE APPOINTED		
4/22	CONFERENCE COMMITTEE DISSOLVED		
4/22	FREE CONFERENCE COMMITTEE APPOINTED		

HOUSE FINAL STATUS

HB 974

4/23	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/23	2ND READING FREE CONFERENCE COMMITTEE REPORT ADOPTED	70	20
4/24	TAKEN FROM 3RD READING AND MOVED BACK TO FREE CONFERENCE COMMITTEE	63	36
4/24	FREE CONFERENCE COMMITTEE REPORT NO. 2		
4/25	MOTION FAILED TO NOT ADOPT FREE CONFERENCE COMMITTEE REPORT NO. 2 ON 2ND READING	42	54
	(2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 2 ADOPTED)		
4/25	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 2 ADOPTED	64	36
	SENATE		
4/20	CONFERENCE COMMITTEE APPOINTED		
4/22	CONFERENCE COMMITTEE DISSOLVED		
4/22	FREE CONFERENCE COMMITTEE APPOINTED		
4/23	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/23	2ND READING FREE CONFERENCE COMMITTEE REPORT ADOPTED	49	0
4/24	TAKEN FROM 3RD READING AND MOVED BACK TO FREE CONFERENCE COMMITTEE		
4/24	FREE CONFERENCE COMMITTEE DISSOLVED		
4/24	FREE CONFERENCE COMMITTEE APPOINTED		
4/25	FREE CONFERENCE COMMITTEE REPORT NO. 2		
4/25	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 2 ADOPTED	49	0
4/25	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 2 ADOPTED	47	2
5/03	SIGNED BY SPEAKER		
5/03	SIGNED BY PRESIDENT		
5/03	TRANSMITTED TO GOVERNOR		
5/15	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 763		
	EFFECTIVE DATE: 5/15/91		

HB 974 INTRODUCED BY PECK, ET AL

ESTABLISH A RURAL PHYSICIAN INCENTIVE PROGRAM

3/04	INTRODUCED		
3/04	REFERRED TO HUMAN SERVICES & AGING		
3/04	FIRST READING		
3/05	FISCAL NOTE REQUESTED		
3/08	FISCAL NOTE RECEIVED		
3/09	FISCAL NOTE PRINTED		
3/12	HEARING		
3/12	REVISED FISCAL NOTE PRINTED		
3/13	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/19	2ND READING PASSED	97	1
3/21	3RD READING PASSED	99	0
	TRANSMITTED TO SENATE		
3/22	FIRST READING		
3/22	REFERRED TO FINANCE & CLAIMS		
3/26	HEARING		
3/26	COMMITTEE REPORT—BILL CONCURRED		
3/28	2ND READING CONCURRED	48	1
4/01	3RD READING CONCURRED	47	2
	RETURNED TO HOUSE		
4/03	SIGNED BY SPEAKER		
4/03	SIGNED BY PRESIDENT		
4/03	TRANSMITTED TO GOVERNOR		
4/08	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 394		
	EFFECTIVE DATE: 7/01/91		

1 *HOUSE BILL NO. 973*
2 INTRODUCED BY *Steve Smith*
3 *Therese Smith* *NATHAN D. SMITH* *McCall*
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A SMALL
5 PETROLEUM TANK RELEASE CLEANUP FUND TO PROVIDE EXPENSE
6 REIMBURSEMENT TO CERTAIN TANK OWNERS AND OPERATORS;
7 ESTABLISHING A SMALL PETROLEUM STORAGE TANK CLEANUP FEE TO
8 BE PAID BY DISTRIBUTORS OF SPECIAL FUELS; CREATING A
9 STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502,
10 75-11-301, 75-11-302, 75-11-307, 75-11-308, 75-11-309,
11 75-11-313, 75-11-318, AND 75-11-319, MCA; AND PROVIDING
12 EFFECTIVE DATES."

13
14 STATEMENT OF INTENT

15 A statement of intent is required for this bill in order
16 to provide guidance to the petroleum tank release
17 compensation board, the department of health and
18 environmental sciences, and the department of revenue for
19 the adoption of rules authorized by the bill. The petroleum
20 tank release compensation board shall adopt rules that: (1)
21 govern submission of claims from owners and operators to the
22 board and to the department of health and environmental
23 sciences for reimbursement from the small petroleum tank
24 release cleanup fund; (2) establish procedures for
25 determining eligibility of tank owners and operators for

1 reimbursement from the small petroleum tank release cleanup
2 fund and the validity of claims; and (3) are necessary for
3 administration of the small petroleum tank release cleanup
4 fund and other provisions of this bill, provided that the
5 rules may not conflict with the eligibility requirements and
6 procedures provided for in this bill and Title 75, chapter
7 11, part 3; rules previously adopted under that part; and
8 laws, rules, and procedures of the federal government or the
9 department of health and environmental sciences pertaining
10 to petroleum storage tank releases eligible for
11 reimbursement from the small petroleum tank release cleanup
12 fund.

13 The department of health and environmental sciences may
14 adopt rules or revise existing rules as necessary to
15 implement and incorporate the provisions of this bill into
16 the department's existing procedures and its requirements
17 pertaining to releases from underground storage tanks.

18 The department of revenue shall adopt rules governing
19 the collection of the small petroleum storage tank cleanup
20 fee, including reporting and recordkeeping requirements, the
21 method and timing of payments from distributors, examination
22 of records, and other provisions necessary to ensure that
23 the small petroleum storage tank cleanup fee is properly and
24 efficiently collected.
25

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-11-301, MCA, is amended to read:

"75-11-301. Findings and purposes. (1) The legislature finds that the use of petroleum products stored in tanks contributes significantly to the economic well-being and quality of life of Montana citizens.

(2) The legislature finds that leaks, spills, and other releases of petroleum products from storage tanks endanger public health and safety, ground water quality, and other state resources.

(3) The legislature finds that current administrative and financial resources of the public and private sectors are inadequate to address problems caused by releases from petroleum storage tanks and need to be supplemented by a major program of release detection and corrective action.

(4) The legislature finds that proper funding for the program is through a petroleum storage tank cleanup fee fees paid by persons who use and receive the benefits of petroleum products. The legislature further finds that this these general use fee fees, provided for in 75-11-314 and [section 8], is are intended solely to support a program to pay for corrective action and damages caused by releases from petroleum storage tanks. The general gasoline and special fuels use fee--is fees are collected from distributors for administrative convenience and is are not

intended as a method for collecting highway revenue pursuant to the provisions of Article VIII, section 6, of the Montana constitution. The fee-is fees are intended to implement the legislature's duty to provide for the administration and enforcement of maintaining and improving a clean and healthful environment for present and future generations, as required by Article IX, section 1, of the Montana constitution.

(5) The purposes of this part are to:

(a) protect public health and safety and the environment by providing prompt detection and cleanup of petroleum tank releases;

(b) provide adequate financial resources and effective procedures through which tank owners and operators may undertake and be reimbursed for corrective action and payment to third parties for damages caused by releases from petroleum storage tanks; and

(c) assist certain tank owners and operators in meeting financial assurance requirements under state and federal law governing releases from petroleum storage tanks."

Section 2. Section 75-11-302, MCA, is amended to read:

"75-11-302. Definitions. The following definitions apply to this part:

(1) "Accidental release" means a sudden or nonsudden release, neither expected nor intended by the tank owner or

operator, of petroleum or petroleum products from a storage tank that results in a need for corrective action or compensation for third party bodily injury or property damage.

(2) "Applicable fund" means either the petroleum tank release cleanup fund established in 75-11-313 or the small petroleum tank release cleanup fund established in [section 7].

(3) "Board" means the petroleum tank release compensation board established in 2-15-2108.

(4) "Bodily injury" means physical injury, sickness, or disease sustained by an individual, including death that results from the physical injury, sickness, or disease at any time.

(5) "Claim" means a written request prepared and submitted by an owner or operator or an agent of the owner or operator for reimbursement of expenses caused by an accidental release from a petroleum storage tank.

(6) "Corrective action" means investigation, monitoring, cleanup, restoration, abatement, removal, and other actions necessary to respond to a release.

(7) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(8) "Distributor" means a distributor as defined in

~~15-70-201~~ a person who is licensed to sell gasoline as provided by 15-70-202 or licensed to sell special fuels as provided by 15-70-302 and who:

(a) engages in the business in this state of producing, refining, manufacturing, or compounding gasoline or special fuels for sale, use, or distribution;

(b) imports gasoline or special fuels for sale, use, or distribution in this state;

(c) engages in the wholesale distribution of gasoline or special fuels in this state;

(d) is an exporter as defined in subsection (11);

(e) is a dealer licensed as of January 1, 1969, except a dealer at an established airport; or

(f) either blends gasoline with alcohol or blends special fuels with waste oil.

(9) "Eligible costs" means expenses reimbursable under 75-11-307.

(10) "Export" means to transport out of Montana, by any means other than in the fuel supply tank of a motor vehicle, gasoline or special fuels received from a refinery or pipeline terminal within Montana.

(11) "Exporter" means a person who transports, other than in the fuel supply tank of a motor vehicle, gasoline or special fuels received from a refinery or pipeline terminal in Montana to a destination outside Montana for sale, use,

1 or consumption beyond the boundaries of this state.

2 (12) "Fee" "Fees" means the petroleum storage tank
3 cleanup fee provided for in 75-11-314 and the small
4 petroleum storage tank cleanup fee provided for in [section
5 8].

6 ~~{18}-"Fund"--means--the--petroleum--tank--release--cleanup~~
7 ~~fund-established-in-75-11-313;~~

8 ~~{11}{13}~~ "Gasoline" means gasoline as defined in
9 15-70-201.

10 (14) "Import" means to receive into a person's
11 possession or custody first after its arrival and coming to
12 rest at a destination within the state, any gasoline or
13 special fuels shipped or transported into this state from a
14 point of origin outside of this state, other than in the
15 fuel supply tank of a motor vehicle.

16 ~~{12}{15}~~ "Operator" means a person in control of or
17 having responsibility for the daily operation of a petroleum
18 storage tank.

19 ~~{13}{16}~~ "Owner" means a person who holds title to,
20 controls, or possesses an interest in a petroleum storage
21 tank. The term does not include a person who holds an
22 interest in a tank solely for financial security, unless
23 through foreclosure or other related actions the holder of a
24 security interest has taken possession of the tank.

25 ~~{14}{17}~~ "Person" means an individual, firm, trust,

1 estate, partnership, company, association, joint stock
2 company, syndicate, consortium, commercial entity,
3 corporation, or agency of state or local government.

4 ~~{15}{18}~~ "Petroleum" or "petroleum products" means crude
5 oil or any fraction thereof that is liquid at standard
6 conditions of temperature and pressure (60 degrees F and
7 14.7 pounds per square inch absolute).

8 ~~{16}{19}~~ "Petroleum storage tank" means a tank that
9 contains petroleum or petroleum products and that is:

10 (a) an underground storage tank as defined in
11 75-10-403;

12 (b) a storage tank that is situated in an underground
13 area such as a basement, cellar, mine, draft, shaft, or
14 tunnel;

15 (c) an above ground storage tank with a capacity less
16 than 30,000 gallons; or

17 (d) above ground or underground pipes associated with
18 tanks under subsections ~~{16}{19}~~ (19)(b) and ~~{16}{19}~~ (19)(c),
19 except that pipelines regulated under the following laws are
20 excluded:

21 (i) the Natural Gas Pipeline Safety Act of 1968 (49
22 U.S.C. 1671, et seq.);

23 (ii) the Hazardous Liquid Pipeline Safety Act of 1979
24 (49 U.S.C. 2001, et seq.); and

25 (iii) state law comparable to the provisions of law

referred to in subsections ~~(16)(d)(i)~~ (19)(d)(i) and
~~(16)(d)(ii)~~ (19)(d)(ii), if the facility is intrastate.

~~(17)~~ (20) "Property damage" means:

(a) physical injury to tangible property, including
 loss of use of that property caused by the injury; or

(b) loss of use of tangible property that is not
 physically injured.

~~(18)~~ (21) "Release" means a release, as defined in
 75-10-701, of petroleum or petroleum products from a
 petroleum storage tank.

(22) "Special fuel" means those combustible gases and
 liquids commonly referred to as diesel fuel or any other
 volatile liquid of less than 46 degrees A.P.I. (American
 petroleum institute) gravity test, except liquid petroleum
 gas.

Section 3. Section 75-11-307, MCA, is amended to read:

"75-11-307. Reimbursement for expenses caused by a
 release. (1) Subject to the availability of funds money from
the applicable fund under subsection (5), an owner or
 operator who is eligible under 75-11-308 and complies with
 75-11-309 and any rules adopted to implement those sections
 must be reimbursed by the board from the applicable fund for
 the following eligible costs caused by a release from a
 petroleum storage tank:

(a) corrective action costs; and

(b) compensation paid to third parties for bodily
 injury or property damage.

(2) An owner or operator may not be reimbursed from the
applicable fund for the following expenses:

(a) corrective action costs or the costs of bodily
 injury or property damage paid to third parties that are
 determined by the board to be ineligible for reimbursement;

(b) costs for bodily injury and property damage, other
 than corrective action costs, incurred by the owner or
 operator;

(c) penalties or payments for damages incurred under
 actions by the department, board, or federal, state, local,
 or tribal agencies or other government entities involving
 judicial or administrative enforcement activities and
 related negotiations;

(d) attorney fees and legal costs of the owner,
 operator, or a third party;

(e) costs for the repair or replacement of a tank or
 piping or costs of other materials, equipment, or labor
 related to the operation, repair, or replacement of a tank
 or piping;

(f) expenses incurred before April 13, 1989, for owners
 or operators seeking reimbursement from the petroleum tank
 release cleanup fund and expenses incurred before July 1,
 1991, for owners or operators seeking reimbursement from the

1 small petroleum tank release cleanup fund;

2 (g) expenses exceeding the maximum reimbursements
3 provided for in subsection (4).

4 (3) An owner or operator may designate a person as his
5 agent to receive the reimbursement.

6 (4) Subject to the availability of funds under
7 subsection (5):

8 (a) for releases eligible for reimbursement from the
9 petroleum tank release cleanup fund that are discovered and
10 reported on or after April 13, 1989, the board shall
11 reimburse an owner or operator for 50% of the first \$35,000
12 of eligible costs and 100% of subsequent eligible costs, up
13 to a maximum total reimbursement of \$982,500; and

14 (b) for releases eligible for reimbursement from the
15 small petroleum tank release cleanup fund that are
16 discovered and reported on or after July 1, 1991, the board
17 shall reimburse an owner or operator for 50% of the first
18 \$10,000 of eligible costs and 100% of subsequent eligible
19 costs, up to a maximum total reimbursement of \$495,000.

20 (5) If the applicable fund does not contain sufficient
21 money to pay approved claims for eligible costs, a
22 reimbursement may not be made and the fund and the board are
23 not liable for making any reimbursement for the costs at
24 that time. When the applicable fund contains sufficient
25 money, eligible costs must be reimbursed subsequently in the

1 order in which they were approved by the board."

2 **Section 4.** Section 75-11-308, MCA, is amended to read:

3 "75-11-308. **Eligibility.** (1) An owner or operator is
4 eligible for reimbursement for eligible costs caused by a
5 release from a petroleum storage tank only if:

6 (a) the release was discovered on or after:

7 (i) April 13, 1989, for a tank that is eligible for
8 reimbursement from the petroleum tank release cleanup fund;
9 and

10 (ii) July 1, 1991, for a tank that is eligible for
11 reimbursement from the small petroleum tank release cleanup
12 fund;

13 (b) the department is notified of the release in the
14 manner and within the time provided by law or rule;

15 (c) the department has been notified of the existence
16 of the tank in the manner required by department rule;

17 (d) the release was an accidental release; and

18 (e) with the exception of the release, the operation
19 and management of the tank complied with applicable state
20 and federal laws and rules when the release occurred and
21 remained in compliance following detection of the release.

22 (2) An owner or operator is ~~not~~ eligible for
23 reimbursement:

24 (a) from the petroleum tank release cleanup fund for
25 expenses caused by releases from the following petroleum

storage tanks with the following exceptions:

(a)(i) a tank located at a refinery or a terminal of a refiner;

(b)(ii) a tank located at an oil and gas production facility;

(c)(iii) a tank that is or was previously under the ownership or control of a railroad;

(d)(iv) a tank belonging to the federal government;

(e)(v) a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes or a tank used for storing heating oil for consumptive use on the premises where stored;

(f)(vi) a tank owned or operated by a person who has been convicted of a substantial violation of state or federal law or rule that relates to the installation, operation, or management of petroleum storage tanks; or

(g)(vii) a mobile storage tank used to transport petroleum or petroleum products from one location to another; or

(b) from the small petroleum tank release cleanup fund for expenses caused by releases from the following petroleum storage tanks only:

(i) a tank used for storing heating oil for consumptive use on the premises where it is stored; and

(ii) a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes."

Section 5. Section 75-11-309, MCA, is amended to read:

"75-11-309. Procedures for reimbursement of eligible costs. (1) An owner or operator seeking reimbursement for eligible costs and the department shall comply with the following procedures:

(a) If an owner or operator discovers or is provided evidence that a release may have occurred from his petroleum storage tank, he shall immediately notify the department of the release and conduct an initial response to the release in accordance with state and federal laws and rules to protect public health and safety and the environment.

(b) The owner or operator shall conduct a thorough investigation of the release, report the findings to the department, and, as determined necessary by the department, prepare and submit for approval by the department a corrective action plan that conforms with state and federal corrective action requirements.

(c) (i) The department shall review the corrective action plan and forward a copy to a local government office with jurisdiction over a corrective action for the release. The local government office shall inform the department if it wants any modification of the proposed plan.

1 (ii) Based on its own review and comments received from
 2 a local government or other source, the department may
 3 approve the proposed corrective action plan, make or request
 4 the owner or operator to modify the proposed plan, or
 5 prepare its own plan for compliance by the owner or
 6 operator. A plan finally approved by the department through
 7 any process provided in this subsection (c) is the approved
 8 corrective action plan.

9 (iii) After the department approves a corrective action
 10 plan, a local government may not impose different corrective
 11 action requirements on the owner or operator.

12 (d) The department shall notify the owner or operator
 13 and the board of its approval of a corrective action plan.

14 (e) The owner or operator shall implement the approved
 15 plan. The department may oversee the implementation of the
 16 plan, require reports and monitoring from the owner or
 17 operator, undertake inspections, and otherwise exercise its
 18 authority concerning corrective action under Title 75,
 19 chapter 10, parts 4 and 7, and other applicable law and
 20 rules.

21 (f) The owner or operator shall document in the manner
 22 required by the board all expenses incurred in preparing and
 23 implementing the corrective action plan. The owner or
 24 operator shall submit claims and substantiating documents to
 25 the department in the form and manner required by the board.

1 The department shall forward each claim and appropriate
 2 documentation to the board and notify the board of any costs
 3 that the department considers not reimbursable because of
 4 any failure to meet the requirements of subsection (2). The
 5 department shall inform the owner or operator of any
 6 notification given to the board.

7 (g) The owner or operator shall document, in the manner
 8 required by the board, any payments to a third party for
 9 bodily injury or property damage caused by a release. The
 10 owner or operator shall submit claims and substantiating
 11 documents to the board in the form and manner required by
 12 the board.

13 (2) The board shall review each claim received under
 14 subsections (1)(f) and (1)(g), make the determination
 15 required by this subsection, inform the owner or operator of
 16 its determination, and, as appropriate, reimburse the owner
 17 or operator from the applicable fund. Before approving a
 18 reimbursement, the board shall affirmatively determine that:

19 (a) the expenses for which reimbursement is claimed:

20 (i) are eligible costs; and

21 (ii) were actually, necessarily, and reasonably incurred
 22 for the preparation or implementation of a corrective action
 23 plan approved by the department or for payments to a third
 24 party for bodily injury or property damage; and

25 (b) the owner or operator:

(i) is eligible for reimbursement under 75-11-308; and

(ii) has complied with this section and any rules adopted pursuant to this section.

(3) If an owner or operator disagrees with a board determination under subsection (2), he may submit a written request for a hearing before the board. The hearing must be held at a meeting of the board no later than 120 days following receipt of the request or at a time mutually agreed to by the board and the owner or operator.

(4) The board shall obligate money for reimbursement of eligible costs of owners and operators in the order that the costs are finally approved by the board.

(5) (a) The board may, at the request of an owner or operator, guarantee in writing the reimbursement of eligible costs that have been approved by the board but for which money is not currently available from the applicable fund for reimbursement.

(b) The board may, at the request of an owner or operator, guarantee in writing reimbursement of eligible costs not yet approved by the board, including estimated costs not yet incurred. A guarantee for payment under this subsection (5)(b) does not affect the order in which money in the applicable fund is obligated under subsection (4).

(c) When considering a request for a guarantee of payment, the board may require pertinent information or

documentation from the owner or operator. The board may grant or deny, in whole or in part, any request for a guarantee."

Section 6. Section 75-11-313, MCA, is amended to read:

"75-11-313. Petroleum tank release cleanup fund. (1) There is a petroleum tank release cleanup fund in the state special revenue fund established in 17-2-102. The fund is administered as a revolving fund by the board and is statutorily appropriated as provided in 17-7-502.

(2) There is deposited in the fund:

(a) all revenue from the petroleum storage tank cleanup fee as provided in 75-11-314;

(b) money received by the board in the form of gifts, grants, reimbursements, or appropriations, from any source, intended to be used for the purposes of this fund;

(c) money appropriated or advanced to the fund by the legislature; and

(d) all interest earned on money in the fund.

(3) The fund may be used only:

(a) to administer this part, including payment of board and department expenses associated with administration, except that the board shall limit expenditures for administration to an amount that is commensurate with the number of tanks eligible for reimbursement from the petroleum tank release cleanup fund when compared to the

1 total number of tanks eligible for reimbursement from both
 2 of the funds administered under this part;

3 (b) to reimburse owners and operators for eligible
 4 costs caused by a release from a petroleum storage tank and
 5 approved by the board; and

6 (c) for repayment of any advance made under subsection
 7 (4), plus interest earned on the advance.

8 (4) (a) The legislature may appropriate to the fund
 9 repayable advances as necessary to carry out the purposes of
 10 this part. The outstanding total of repayable advances may
 11 not exceed the amount the board estimates will be received
 12 by the fund from the petroleum storage tank cleanup fee
 13 during the next 24 months.

14 (b) Advances to the fund must be repaid and interest
 15 earned on advances must be paid to the general fund when
 16 determined appropriate by the board. However, all advances
 17 to the fund plus the interest earned must be repaid on or
 18 before December 31, 1995."

19 NEW SECTION. Section 7. Small petroleum tank release
 20 cleanup fund. (1) There is a small petroleum tank release
 21 cleanup fund in the state special revenue fund established
 22 in 17-2-102. The fund is administered as a revolving fund by
 23 the board and is statutorily appropriated as provided in
 24 17-2-502.

25 (2) There is deposited in the fund:

1 (a) all revenue from the small petroleum storage tank
 2 cleanup fee as provided in [section 8];

3 (b) money received by the board in the form of gifts,
 4 grants, reimbursements, or appropriations, from any source,
 5 intended to be used for the purposes of this fund;

6 (c) money appropriated or advanced to the fund by the
 7 legislature; and

8 (d) all interest earned on money in the fund.

9 (3) The small petroleum tank release cleanup fund may
 10 be used only:

11 (a) to administer this part, including payment of board
 12 and department expenses associated with administration,
 13 except that the board shall limit expenditures for
 14 administration to an amount that is commensurate with the
 15 number of tanks eligible for reimbursement from the small
 16 petroleum tank release cleanup fund when compared to the
 17 total number of tanks eligible for reimbursement from both
 18 of the funds administered under this part;

19 (b) to reimburse owners and operators for eligible
 20 costs caused by a release from petroleum storage tanks as
 21 specified in 75-11-308(2)(b) and approved by the board; and

22 (c) for repayment of any advance made under subsection
 23 (4) plus interest earned on the advance.

24 (4) (a) The legislature may appropriate to the small
 25 petroleum tank release cleanup fund repayable advances as

necessary to carry out the purposes of this part. The outstanding total of repayable advances may not exceed the amount the board estimates will be received by the fund from the small petroleum storage tank cleanup fee during the next 24 months.

(b) Advances to the fund must be repaid and interest earned on advances must be paid to the general fund when determined appropriate by the board. However, all advances to the fund plus the interest earned must be repaid on or before December 31, 1997.

NEW SECTION. Section 8. Small petroleum storage tank cleanup fee -- collection -- penalties -- warrant for distraint -- statute of limitations. (1) Except as provided in subsection (4), every distributor shall pay to the department of revenue a small petroleum storage tank cleanup fee for each gallon of special fuels distributed by him within the state and upon which the fee has not been paid by any other distributor. The fee must equal:

(a) 1 cent for each gallon of special fuels distributed from July 1, 1991, through June 30, 1993; and

(b) 0.75 cent for each gallon of special fuels distributed on or after July 1, 1993.

(2) The following may not be included in the measure of a distributor's fee:

(a) special fuels exported or sold for export out of

the state; and

(b) special fuels sold to a railroad.

(3) Waste oil that is blended with special fuels to be sold as heating oil is subject to the fee provided in subsection (1).

(4) A fee may not be imposed or collected beginning on the first day of the first month in the first calendar quarter after the unobligated balance in the fund equals or exceeds \$6 million. Whenever the unobligated fund balance is less than \$3 million, the department of revenue shall, within 30 days, notify distributors by mail that the fee is reinstated beginning on the first day of the first month that begins no less than 30 days after the date of the notice. Once reinstated, the fee must be imposed and collected until the unobligated fund balance again equals or exceeds \$6 million.

(5) The department of revenue shall collect the fee in the same manner as the basic gasoline license tax under Title 15, chapter 70, part 2. The provisions of 15-70-103, 15-70-111, 15-70-202, 15-70-205, 15-70-206, 15-70-208 through 15-70-212, 15-70-221(2), and 15-70-232 apply to the fee. The provisions of 15-70-203, 15-70-204, 15-70-207, 15-70-221(1), and 15-70-222 through 15-70-224 do not apply to the fee.

Section 9. Section 75-11-318, MCA, is amended to read:

"75-11-318. Powers and duties of board. (1) The board shall administer the petroleum tank release cleanup fund and the small petroleum tank release cleanup fund in accordance with the provisions of this part, including the payment of reimbursement reimbursements to owners and operators.

(2) The board shall determine whether to approve reimbursement of eligible costs under the provisions of 75-11-309(2), shall obligate money from the applicable fund for approved costs, and shall act on requests for the guarantee of payments through the procedures and criteria provided in 75-11-309.

(3) The board may conduct meetings, hold hearings, undertake legal action, and conduct other business as may be necessary to administer its responsibilities under this part. The board shall meet at least quarterly for the purpose of reviewing and approving claims for reimbursement from the applicable fund established by 75-11-313 or [section 7] and conducting other business as necessary.

(4) The board may hire staff, and the department shall provide staff support to the board as the department determines it is able. The Pursuant to the provisions of 75-11-313(3)(a) and [section 7(3)(a)], the board shall use the applicable fund to pay its staff expenses and to pay for department staff utilized for the review or preparation of corrective action plans and for the oversight of corrective

action undertaken by owners and operators for the purposes of this part.

(5) The board shall adopt rules to administer this part, including:

(a) rules governing submission of claims by owners or operators to the department and board;

(b) procedures for determining owners or operators who are eligible for reimbursement and determining the validity of claims;

(c) procedures for the review and approval of corrective action plans;

(d) procedures for conducting board meetings, hearings, and other business necessary for the implementation of this part; and

(e) other rules necessary for the administration of this part."

Section 10. Section 75-11-319, MCA, is amended to read:

"75-11-319. Rulemaking authority -- department and department of revenue. (1) The department may adopt rules necessary to administer its responsibilities under this part, including requirements for approval of corrective action plans.

(2) The department of revenue shall adopt rules governing the collection of the petroleum storage tank cleanup fee and the small petroleum storage tank cleanup

fee. The rules may include, at a minimum, reporting and recordkeeping requirements, method and timing of payment, and examination of records. The rules must be generally consistent with procedures governing the collection of the gasoline license tax provided for in Title 15, chapter 70."

Section 11. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;

19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111; 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws of 1985, and [section 7].

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3), pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991.)"

NEW SECTION. **Section 12.** Codification instruction. [Sections 7 and 8] are intended to be codified as an integral part of Title 75, chapter 11, part 3, and the

1 provisions of Title 75, chapter 11, part 3, apply to
2 [sections 7 and 8].

3 NEW SECTION. **Section 13.** Severability. If a part of
4 [this act] is invalid, all valid parts that are severable
5 from the invalid part remain in effect. If a part of [this
6 act] is invalid in one or more of its applications, the part
7 remains in effect in all valid applications that are
8 severable from the invalid applications.

9 NEW SECTION. **Section 14.** Effective dates. (1)
10 [Sections 1, 2, 9, 10, 12, and this section] are effective
11 on passage and approval.

12 (2) [Sections 3 through 8 and 11] are effective July 1,
13 1991.

-End-

CHAIRMAN--BOB RANEY

NORMAL SCHEDULE==> SITE: ROOM 317

DAYS: TU,TH

TIME: 3:00 P.M.

SECRETARY-LISA FAIRMAN

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0891	2/15	2/22		PASS AS AMENDED		2/23
STICKNEY, JESSICA			REQUIRE FINANCIAL ASSURANCE AS LICENSE CONDITION TO OPERATE A MEGALANDFILL			
HB0906	2/16	3/06		PASS AS AMENDED	APPROPRIATIONS	3/13
CONNELLY, MARY ELLEN			FUNDING FOR FORESTRY EXTENSION SERVICE			
HB0908	2/16	2/20		PASS AS AMENDED		2/21
HARPER, HAL			WATER MEASURING			
HB0911	2/16	2/22		TABLED ON 02/22		
COBB, JOHN			PERMITS WATER QUALITY ACT			
HB0918	2/18	2/20		DO PASS		2/21
SOUTHWORTH, JIM			REVISED DEFINITION OF SOLID WASTE TO MAKE CONSISTENT WITH RELATED STATUTE			
HB0924	2/18	2/20		PASS AS AMENDED		2/22
MEASURE, BRUCE			REQUIRE DEPT OF COMMERCE TO ASSIST PERSON REPRESENTING CERTAIN INTERESTS			
HB0926	2/18	2/22		DO PASS		2/23
HOFFMAN, DAVID			PROVIDING FOR VOLUNTARY PERFORMANCE BONDS FOR WATER POLLUTION PERMITS			
HB0952	2/20	2/22		PASS AS AMENDED		2/23
RANEY, BOB			REQUIRE SAND AND GRAVEL OPERATIONS TO COMPLY WITH LOCAL ZONING			
HB0956	2/20	3/08		PASS AS AMENDED		3/21
O'KEEFE, MARK			GENERALLY REVISE COAL MINE RECLAMATION ACT TO PROTECT WATER RESOURCES			
HB0971	3/05	3/21		TABLED ON 03/27		
COHEN, BEN			MONTANA FOREST RESOURCES MANAGEMENT ACT			
HB0973	2/26				TAXATION	
STANG, BARRY			CREATE A SMALL PETROLEUM TANK RELEASE CLEANUP FUND AND SPECIAL FUELS FEE			

MONTANA LEGISLATIVE COUNCIL BILL STATUS SYSTEM
 FINAL COMMITTEE REPORT OF REFERRED BILLS
 COMMITTEE--(H) TAXATION

PAGE NBR..... 160
 RUN TIME13:25
 RUN DATE.... 06/04/91

CHAIRMAN--DAN HARRINGTON
 NORMAL SCHEDULE==> SITE: ROOM 437

DAYS: M,T,W,T,F

TIME: 8:00 A.M.

SECRETARY--MONA SPAULDING

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0949	2/19	3/22		DO PASS		3/28
TUNBY, ROLPH			TAX DEDUCTION FOR LONG-TERM CARE INSURANCE PREMIUMS			
HB0959	2/20					
HARRINGTON, DAN			GENERALLY REVISE THE INDIVIDUAL INCOME TAX LAWS OF THE STATE			
HB0970	2/22	3/20		PASS AS AMENDED		3/23
COCCHIARELLA, VICKI			GENERALLY REVISE TAX TREATMENT OF NEW AND EXPANDING INDUSTRIES			
HB0971	2/23				NATURAL RESOURCES	
COHEN, BEN			MONTANA FOREST RESOURCES MANAGEMENT ACT			
HB0972	2/23	3/22		TABLED ON 03/27		
SIMPKINS, RICHARD			PROPERTY TAX RELIEF FOR PURCHASE OF PRINTING EQUIPMENT			
HB0973	3/05	3/14	3/19	PASS AS AMENDED		3/23
STANG, BARRY			CREATE A SMALL PETROLEUM TANK RELEASE CLEANUP FUND AND SPECIAL FUELS FEE			
HB0976	3/05	3/19		DO PASS		3/19
SWYSGOOD, CHARLES			ESTABLISH VALUE OF VERMICULITE FOR NET PROCEEDS AND RITT PURPOSES			
HB0982	3/08	3/18		PASS AS AMENDED		3/21
O'KEEFE, MARK			INCREASE SCHOOL BUDGET SCHEDULES BY 2 PERCENT			
HB0983	3/08	3/20		TABLED ON 03/27		
BARDANOUVE, FRANCIS			SODA POP TAX FOR STATE PARKS			
HB0985	3/11	3/21		TABLED ON 03/27		
RANEY, BOB			IMPOSING MOTOR CARRIER TAX			
HB0986	3/12	3/21		PASS AS AMENDED		3/28

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By DAN HARRINGTON, CHAIR, on March 14, 1991, at 9:00 a.m.

ROLL CALL

Members Present:

Dan Harrington, Chairman (D)
Bob Ream, Vice-Chairman (D)
Ben Cohen, Vice-Chair (D)
Ed Dolezal (D)
Jim Elliott (D)
Orval Ellison (R)
Russell Fagg (R)
Mike Foster (R)
Bob Gilbert (R)
Marian Hanson (R)
David Hoffman (R)
Jim Madison (D)
Ed McCaffree (D)
Bea McCarthy (D)
Tom Nelson (R)
Mark O'Keefe (D)
Bob Raney (D)
Ted Schye (D)
Barry "Spook" Stang (D)
Fred Thomas (R)
Dave Wanzenried (D)

Staff Present: Lee Heiman, Legislative Council
Lois O'Connor, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HB 764

Presentation and Opening Statement by Sponsor:

REP. HAYNE, House District 10, Dupuyer, stated HB 764 would define the continued use of a two cent perpetual cigarette tax which was in a bill passed in the 1989 Legislature. She stated that this tax was fought for and won by the various Montana veterans organizations and senior groups to support the construction of our state second veterans nursing home located in Glendive.

the these foundation are exactly that. They are foundations of support for the various higher education facilities. These foundation fill a void and serve as an essential element to our colleges and students. These funds are targeted toward things that are most worth of being funded.

Patrick McCleary, Associated Students of the University of Montana, stated that HB 894 is a very modest bill. It provides a maximum 10% rebate of \$5,000 as an incentive. This is an encouraging thing to do.

Opponents' Testimony: None

Questions From Committee Members: None

Closing by Sponsor:

REP. KIMBERLEY said that this is a creative way to help out with a serious problem--funding higher education. He urged the committee's support.

HEARING ON HB 973

Presentation and Opening Statement by Sponsor:

REP. STANG, House District 52, St. Regis, stated HB 973 would create a small petroleum tank cleanup fund similar to the fund set up by REP. RANEY in the last session for commercial tanks. If the bill passes, it would cover all tanks in the state with the exception of refineries, railroads, and people who sell to the federal government. He provided written testimony and amendments. EXHIBIT 15

Proponents' Testimony:

Fred Maker, Superior School District, stated the last legislature had the foresight to pass HB 617--the petroleum fund. Unfortunately, you left out tanks that supply heating units. There are three major constraints against this: (1) heating oil tanks are still on est stringent regulations of the EPA; (2) the cost of cleaning up the tanks is very prohibitive; and (3) the means of acquiring the money for such cleanup.

He gave a scenario of what the Superior School had to go through to clean up their spill. They had no choice but to clean it up. They did, but asked what would happen if they didn't. They said that the state would clean it up, then take them to court and force them to pay for it. When they started the process of cleanup, they had to find the people who could technically help them with the cleanup. What he found was a very cost prohibitive method of cleaning up the fuel. There are not many people who know how to clean these types of spills; therefore, their costs are very high.

Under current law, if they had a fuel leak this year, they would have no means of collecting money from any sources other than his general fund. Last year, he could go to the voters and put a mandatory tax on those voters. There are at the present time in the area of \$65,000 for the cleanup. The federal government does not help in the payment of the cleanup. HB 973 would help get the funds for such cleanups.

Jean Riley, Petroleum Tank Release Compensation Board, provided written testimony. EXHIBIT 16

Chris Kaufmann, Montana Environmental Information Center, stated there are statutes in place that provide environmental cleanup for fuel tanks over 1,100 gallons. The purpose of the fund was to protect gas stations from financial disaster. About 30% of all tanks are covered under this provision. Sixty percent of the tank population is under 1,100 gallons and 5% of those larger than that are holding fuel oil or special fuels. We need a greater level of protection. HB 973 will protect schools, hospitals, and homeowners from environmental degradation due to leaking tanks.

The cost of cleaning up the leaking tank is \$140,000. That cost is lower in Montana. At the point where ground water becomes contaminated, the cost of these cleanups is above \$50,000. More and more leaks are being discovered all the time. This fund creates an incentive to look for leaks and clean them up. She urged the committee's support.

Milton Markeson, Carter County Commissioner, stated it is most important that a fund is created to cleanup leaky underground storage tanks. The effective date of HB 973 should be made retroactive to April 13, 1989. When LUST regulations were implemented, no one realized how much a major cleanup project would cost. It is impossible to absorb the cost without financial help. By passing HB 973, a fund would be created to help everyone. A contaminated area presents a risk to health and the environment. HB 973 is needed.

Bill Donahue, Superintendent, Libby, supported HB 973. He stated that he had five schools in his district and four of them have underground storage tanks. He asked his insurance agent if they were covered for leakage. The agent said no, the money for cleanup would have to come from our general fund or reserves.

Gordon Morris, Montana Association of Counties, stood in support of HB 973.

Kay McKenna, Montana Association of County Superintendents, stated the Association is very much in favor of HB 973. It cost a fortune to get rid of the tanks and urged the committee's support.

Marvin Musall, H.M.S. Technologies, stated that as a consultant he is seeing a pattern where the affected parties are in constant need the support of funding for cleanup.

Allen Hobbs, Montana Refining Company, stated their company buys crude oil from Conrad, Cutbank, and Shelby and ship it to Great Falls. Their finished products are sold in Central and Northern Montana. He supported HB 973 with the amendments because the U.S. government does not pay the fee, therefore, sales to the federal government should be exempt. Military jet fuel should also be exempt from paying this fee. It is a very large portion of their business.

John Herrin, Consultant To Carter County, stated Montana needs HB 973. He stated heating oil is much heavier than oil. It seeps into the ground water system and is much worse than gasoline. HB 973 is an insurance policy. It spreads out the risk for your constituents in case they have a leak.

Opponents' Testimony:

Ben Havdahl, Montana Motor Carriers, provided written testimony.
EXHIBIT 17

Questions From Committee Members:

REP. McCAFFREE asked REP. STANG how many schools have access to natural gas. REP. STANG said he did not know. He stated that the schools who do have natural gas would not be affected by HB 973.

REP. O'KEEFE asked if the bill would cover the cleanup of tank releases caused by railroad. REP. STANG said no. REP. O'KEEFE stated that Ben Havdahl suggested that we put the taxes on the special fuels sold to railroads and asked Mr. Havdahl if he also suggested that the cleanup program cover cleanups caused by railroad fuel. Mr. Havdahl said that it would have to be left up to the legislature, but he had no problem with that.

Closing by Sponsor:

REP. STANG said that he would have a problem putting railroad under HB 973. We would probably be looking at another independent liability somewhere in the state. He thinks that there will be less and less of these tanks because of EPA requirements. If we look down the road, the possibility of combining this fund with the others will exist. If we do so, then we can further reduce the diesel and the gas tax. Many places such as gas stations can not get insurance to cover their underground storage tanks. This bill is a cheap way for these people to do it. HB 973 will take care of the refinery in Great Falls to the federal government. What we should is equal taxes

up and down the board. The retroactive date of the bill only applies to the leaks.

EXECUTIVE ACTION ON SB 128

Motion: REP. HOFFMAN MOVED SB 128 BE CONCURRED IN.

Discussion:

REP. ELLIOTT said that this is a sales tax on tourists. He objected to the bill. REP. RANEY stated that he was also against the bill. He sees private enterprise in the Big Sky area going back to 1970 when they first started getting the state to supplement their activity to build the road all the way up to the ski area. Chet Huntley and the Chrysler Corporation came in and built the ski area, condos, stores, and golf courses and made big bucks. Now they don't want to spend their big bucks to take care of their own infrastructure. Now they want us to tax the tourists on their behalf. We should not be doing this.

REP. HOFFMAN stated that we tax alcohol, cigarette, and a whole variety of other things. This again is a very selective tax. There are many people who support a statewide sales tax but oppose this bill because they see it as an erosion of the statewide sales tax concept. If we do not tax the tourists to take care of that infrastructure, then we all will end up paying for it.

REP. GILBERT said he would oppose the bill and he is a sales tax supporter. He agreed with REP. RANEY in that the people who started the commercial endeavor are now trying to find a way to let someone else pay their expenses for them.

REP. MCCARTHY said that she sees it as a user fee on the people who are using the resort and she therefore does not have any objection to it. She is more concerned with how they are going to handle the implementation of it.

REP. STANG said the bill does not just apply to Big Sky. It applies to other communities that would be designated as a resort area and it would give them a chance to improve their infrastructure and can receive the same benefit.

REP. ELLIOTT said that if you can afford to live in Big Sky, you can afford to pay for your own needed improvements. If you can't afford the gas; don't buy the car. There is a vote in the bill. The local voters can go to the polls and vote to tax someone else. This offends him as it is taxation without representation.

Vote: Motion that SB 128 Be Concurred In carried 14 to 7 on a roll call vote. EXHIBIT 18

EXECUTIVE ACTION ON HB 877

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE 3/14/91

NAME	PRESENT	ABSENT	EXCUSED
REP. DAN HARRINGTON	✓		
REP. BEN COHEN, VICE-CHAIRMAN	✓		
REP. BOB REAM, VICE-CHAIRMAN	✓		
REP. ED DOLEZAL	✓		
REP. JIM ELLIOTT	✓		
REP. ORVAL ELLISON	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. BOB GILBERT	✓		
REP. MARIAN HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. JIM MADISON	✓		
REP. ED MCCAFFREE	✓		
REP. BEA MCCARTHY	✓		
REP. TOM NELSON	✓		
REP. MARK O'KEEFE	✓		
REP. BOB RANEY	✓		
REP. TED SCHYE	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. FRED THOMAS	✓		
REP. DAVE WANZENRIED	✓		

AMENDMENTS TO HOUSE BILL 973

The following amendments need to be made to keep the bill similar to Title 75 chapter 11 part 3, MCA. The reasoning for the amendments follows each amendment.

- Page 6 line 2, 3 -- strike as indicated
15-75-202 or licensed to sell special fuels as provided by 15-70-302 and who:

Reason: The special fuel license is a license to sell special fuels at the dealer or retailer level. The petroleum distributor licensed to sell gasoline is at least one level above the special fuels dealer. The fee should be collected at the distributor level which is stated in section 1, Findings and Purposes, 75-11-301(4).

- Page 6 line 18 -- delete (9)

Reason: The definition of export is new and was not included in 75-11-302, this is a typographical error.

- Page 7 line 2 -- insert (9) prior to (12)

Reason: The definition of fee was included in 75-11-302, this is a typographical error.

- Page 10 line 24-25 -- strike and insert as indicated
before July 1, 1991 [THE DATE OF PASSAGE AND APPROVAL OF THIS ACT], for

Reason: This would make the date for eligible costs for the small petroleum tank release cleanup fund the effective date of the act. This would allow owners or operators to submit claims for costs as of the effective date of the act.

- Page 11 line 16 -- strike and insert as indicated
after July 1, 1991 APRIL 13, 1989, the

Reason: This would make the effective date of a release eligible for reimbursement from the small petroleum tank release cleanup fund on or after April 13, 1989.

→ Page 12 line 6-12 -- strike as indicated after:

~~(i) April 13, 1989, for a tank that is eligible for reimbursement from the petroleum tank release cleanup fund; and~~

~~(ii) July 1, 1991, for a tank that is eligible for reimbursement from the small petroleum tank release cleanup fund;~~

Reason: This would make the eligible date of a release, which could be eligible for reimbursement from the small petroleum tank release cleanup fund, April 13, 1989.

→ Page 12 line 22 through page 14 line 3 -- strike and insert as indicated

(2) (a) An owner or operator is ~~not~~ NOT eligible for reimbursement;

~~(a) from the petroleum tank release cleanup fund OR THE SMALL PETROLEUM TANK RELEASE CLEANUP FUND for expenses caused by releases from the following THE FOLLOWING petroleum storage tanks with the following exceptions:~~

~~(a)(i) a tank located at a refinery or terminal of a refiner;~~

~~(b)(ii) a tank located at an oil or gas production facility;~~

~~(c)(iii) a tank that is or was previously under the ownership or control of a railroad;~~

~~(d)(iv) a tank belonging to the federal government;~~

~~(e)(v) a farm or residential tank with the capacity of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes or a tank used for storing heating oil for consumptive use on the premises where stored;~~

~~(f)(vi)(v) a tank owned or operated by a person who has been convicted of a substantial violation of state or federal law or rule that related to the installation, operation, or management of petroleum storage tanks; or~~

~~(g)(vii)(vi) a mobile storage tank used to transport petroleum or petroleum products from one location to another; or.~~

(b) AN OWNER OR OPERATOR IS NOT ELIGIBLE FOR REIMBURSEMENT from the small petroleum tank release cleanup fund for expenses caused by releases from the following petroleum storage tanks only:

(i) a tank used for storing heating oil for consumptive use on the premises where it is stored; or

(ii) a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes.

(c) AN OWNER OR OPERATOR IS ELIGIBLE FOR REIMBURSEMENT FROM THE SMALL PETROLEUM TANK RELEASE CLEANUP FUND FOR EXPENSES CAUSED BY RELEASES FROM PETROLEUM STORAGE TANKS LISTED IN SUBSECTION (2)(b)(i) AND (2)(b)(ii) ONLY."

Reason: This allows the present exclusions of railroad tanks, federal government tanks, etc. from both funds. It excludes small farm and residential tanks and heating oil tanks from the petroleum tank release cleanup fund and includes them into the small petroleum tank release cleanup fund.

Ex. 15
3-14-91
HB 973

- Page 18 line 24 through Page 19 line 1 -- strike and insert as indicated
number of tanks CLAIMS AND COMPLEXITY OF CLAIMS eligible for reimbursement from the petroleum tank release cleanup fund when compared to the total number of tanks CLAIMS AN COMPLEXITY OF CLAIMS eligible for reimbursement

Reason: The total number of tanks does not indicate the time needed for the claim review. The claims received for the petroleum tank release cleanup fund are usually of a greater dollar amount and more complex than the expected claims for the small petroleum tank release cleanup fund.

- Page 20 line 15-17 -- strike and insert as indicated
number of tanks claims and complexity of claims eligible for reimbursement from the small petroleum tank release cleanup fund when compared to the total number of tanks claims and complexity of claims eligible for reimbursement

Reason: The total number of tanks does not indicate the time needed for the expected claim review. The claims expected to be received for the small petroleum tank release cleanup fund should be of a lesser dollar amount and not as complex as the claims being received for the petroleum tank release cleanup fund.

- Page 21 line 11 -- insert as indicated.
before December 31, 1997.

(5) (a) The legislature may appropriate to the small petroleum tank release cleanup fund repayable advances from the petroleum tank release cleanup fund as necessary to carry out the administrative needs of this part. The outstanding total repayable advances may not exceed the amount the Board estimates will be received by the fund from the small petroleum storage tank cleanup fee during the next 12 months.

(b) Advances to the fund must be repaid with interest at a rate equal to the average of the S.T.I.P. portfolio seven day average yield for the months in which the loan is outstanding when determined appropriate by the Board. However, all advances to the fund plus the interest must be repaid on or before December 1993.

Reason: To allow for a loan from the Petroleum Tank Release Cleanup Fund to the Small Petroleum Tank Release Cleanup Fund.

- Page 22 lines 1-2 -- insert as indicated
the state; and

(b) special fuels sold to the federal government;

(c) special fuels sold to another gasoline distributor licensed under 15-70-201; and

(b)(d) special fuels sold to a railroad.

Reason: These are exclusions from the fee payment which were requested by the distributors. The federal government is not covered by the fund and will not pay the fee.

- Page 22 line 3 -- insert as indicated
(3) Waste oil or waste oil that is blended

Reason: In some areas, waste oil is sold for heating oil--this includes this fuel under the fee collection system.

- Page 24 line 2 -- insert as indicated
part, and to pay for department of revenue staff utilized for the collection of the petroleum storage tank cleanup fee and the small petroleum storage tank cleanup fee.

Reason: This would allow the Petroleum Tank Release Compensation Board to pay the Department of Revenue administrative expenses for the collection of the fees.

- Page 27 line 10 -- insert as indicated
12, 13, and

Reason: This adds the severability section to the effective dates.

HB 973

Number of Underground Storage Tanks by Age and by Substance

	Gasoline	Diesel	Gasohol	Kerosene	Heating Oil	Used Oil	Hazardous	Mixture	Other	Total	Percentage
Age (Years)											
00 - 04	559	270	0	10	53	23	8	1	69	1,013	4.3%
05 - 09	1,851	888	0	36	184	102	34	6	119	3,154	14.3%
10 - 14	2,911	1,313	2	62	259	145	65	1	172	5,231	24.6%
15 - 19	2,276	1,347	0	42	353	102	20	1	154	4,195	19.7%
20 - 24	1,622	898	1	30	307	127	18	0	125	3,129	14.7%
25 - 29	739	522	0	17	162	67	9	0	109	1,624	7.6%
30 - 34	547	515	0	20	139	61	13	0	75	1,390	6.5%
35 - 39	305	199	0	22	80	23	5	0	84	719	3.4%
40 - 44	194	177	0	8	68	8	4	2	53	514	2.4%
45 - 49	52	23	0	3	22	6	5	0	22	133	0.6%
50 - 54	46	27	0	1	10	2	3	0	15	104	0.5%
55 - 59	17	2	0	0	4	0	0	0	4	27	0.1%
60 - 64	15	11	0	1	2	0	0	0	1	31	0.1%
65 - 69	0	2	0	0	0	0	0	0	0	2	0.0%
70 - 74	6	1	0	1	1	0	0	0	1	10	0.0%
75 - 79	5	0	0	0	0	0	0	0	1	6	0.0%
80 - 84	4	0	0	0	0	0	0	0	0	4	0.0%
85 - 89	0	0	0	0	1	1	0	0	1	3	0.0%
90 - 94	0	1	0	0	0	0	0	0	1	2	0.0%
95 - 99+	0	1	0	0	0	1	0	0	1	3	0.0%
Total	11,150	6,411	3	253	1,605	669	193	11	1,008	21,292	100.0%
Percentage	52.4%	30.1%	0.0%	1.2%	7.5%	3.1%	0.9%	0.1%	4.7%	100.0%	

Number of Underground Storage Tanks by Capacity and by Substance

	Gasoline	Diesel	Gasohol	Kerosene	Heating Oil	Used Oil	Hazardous	Mixture	Other	Total	Percentage
Gallons											
0 - 1,099	6,311	3,942	2	150	1,633	577	84	1	590	13,290	60.0%
1,100 - 4,999	2,272	1,223	0	35	78	60	33	1	138	3,840	17.4%
5,000 - 9,999	1,317	487	0	18	41	28	24	3	130	2,048	9.3%
10,000 - 29,999	1,480	885	1	35	44	28	32	3	173	2,687	12.1%
30,000 - 49,999	3	21	0	6	0	1	0	0	6	37	0.2%
50,000 and over	88	62	0	15	1	0	5	3	56	230	1.0%
Total	11,471	6,620	3	259	1,797	694	184	11	1,093	22,132	100.0%
Percentage	51.3%	29.9%	0.0%	1.2%	8.1%	3.1%	0.8%	0.0%	4.9%	100.0%	

Ex. 15
3-14-91
HB 973

SCHOOL HEATING OIL TANKS FIFTEEN YRS. OF AGE AND LESS

school	age	capacity				capacity
		to 1,100	1,101-4,999	5,000-9,999	10,000 & up	capacity
Belt Pub.Sch.Dist #29--Church	4	0	0	0	10,000	10,000
Belt Pub.Sch.Dist #29--Park	15	275	0	0	0	275
Skyview H.S.--Billings	3	0	0	5,000	0	5,000
Castle Rock Jr.H.S.--Billings	12	0	0	5,000	0	5,000
Knees School--Brady	3	1,000	0	0	0	1,000
Bridger School Dist. #2	14	1,000	0	0	0	1,000
Broadus Elem. Dist 79J	10	0	0	5,700	0	5,700
Bus Garage/Tran.Dept-Browning	1	0	0	6,000	0	6,000
Charlo School Dist. 7J	6	1,000	0	0	0	1,000
	14	1,000	0	0	0	1,000
	13	0	0	0	15,000	15,000
Colstrip Public Schools	13	0	0	0	10,000	10,000
Swan Valley Elem.Sch.--Condon	3	1,000	0	0	0	1,000
School Dist. #49--Dagmar	14	500	0	0	0	500
Beaverhead Co. H.S.--Dillon	6	1,000	0	0	0	1,000
Divide School-Sch. Dist #4	4	1,000	0	0	0	1,000
Dutton Public Schools	1	0	0	0	10,000	10,000
Carter Co. H.S.--Ekalaka	10	500	0	0	0	500
Golden Ridge Sch.--Fairfield	10	300	0	0	0	300
Chouteau Co.Dist.1--Ft.Benton	9	0	2,000	0	0	2,000
Lustre Grade School--Frazer	5	1,000	0	0	0	1,000
Frenchtown Sch. Dist. 40	11	1,000	0	0	0	1,000
Gardiner Pub.Sch.Dist #7 & 4	3	0	0	8,000	0	8,000
School Dist. #1--Glendive	0	1,000	0	0	0	1,000
Havre School Bus Garage	4	0	0	0	12,000	12,000
Hot Springs School Dist.	14	300	0	0	0	300
	14	1,000	0	0	0	1,000
Brooks Elem. Sch.--Lewistown	14	500	0	0	0	500
Libby Sr. H.S.	0	0	2,000	0	0	2,000
	0	0	2,000	0	0	2,000
St. John Lutheran Sch.--Libby	0	1,000	0	0	0	1,000
School Bus Stop--Livingston	8	0	0	8,000	0	8,000
Lodge Grass Public Schools	10	0	0	0	10,000	10,000
	5	0	0	0	10,000	10,000
Pine Hills Sch.--Miles City	14	0	0	8,000	0	8,000
Paradise Grade School	4	1,000	0	0	0	1,000
Cherry Valley Sch.--Polson	0	0	4,000	0	0	4,000
Potomac School Dist. 11	14	1,000	0	0	0	1,000
Pryor Public Schools	14	500	0	0	0	500
Centerville Sch.--Sand Coulee	4	0	0	0	10,000	10,000
Sunburst School Dist. 2	4	1,000	0	0	0	1,000
Broadwater Co. H.S.--Townsend	0	0	0	0	10,000	10,000
Troy High School	4	0	0	0	10,000	10,000
	4	0	0	0	10,000	10,000
Troy Elem. School	4	0	0	0	10,000	10,000
White Sulphur Springs Dist#209	8	0	0	0	10,000	10,000
	8	0	0	0	10,000	10,000
TOTALS	47	17,875	10,000	45,700	147,000	220,575

TOTAL CAPACITY OF ALL TANKS--220,575

INFORMATION COMPILED--DECEMBER 28, 1990

SCHOOL HEATING OIL TANKS OVER 15 YEARS OF AGE

school	age	capacity				TOTAL capacity
		up to 1,100	1,101 to 4,999	5,000 to 9,999	10,000 and up	
Arlee H.S.	24	0	0	0	10,000	10,000
St. Labre Indian School	24	0	0	0	10,000	10,000
	20	1,000	0	0	0	1,000
	20	1,000	0	0	0	1,000
	20	0	0	0	10,000	10,000
Bainville Public School	19	0	0	0	10,000	10,000
Belt Public Schools Dist. #29	16	1,000	0	0	0	1,000
Belt--Church St. location	29	500	0	0	0	500
Pioneer Sch Dist. #41-Blngs	21	1,000	0	0	0	1,000
	21	300	0	0	0	300
Rocky Boy Elementary	16	0	0	0	10,000	10,000
Box Elder	26	unkno	0	0	0	unknown
Malmborg Sch Dis #47-Bozeman	19	560	0	0	0	560
Cottonwood Sch Dist #22 Bzmn.	26	1,000	0	0	0	1,000
Anderson Sch Dist #41-Bzmn.	20	400	0	0	0	400
Brady Public School	29	0	0	8,600	0	8,600
Powder River Co. HS--Broadus	33	1,000	0	0	0	1,000
Broadus Elem. Dist #79J	26	0	0	7,500	0	7,500
Browning Middle School	17	300	0	0	0	300
Busby School	30	0	0	8,000	0	8,000
	30	0	0	8,000	0	8,000
	26	0	0	8,500	0	8,500
	20	1,000	0	0	0	1,000
	20	1,000	0	0	0	1,000
	26	0	3,000	0	0	3,000
Silver Bow Sch Dist #1-Butte	19	0	4,000	0	0	4,000
Cascade Public Schools	24	0	0	0	10,000	10,000
	24	0	0	5,000	0	5,000
Charlo School Dist 7J	39	0	0	0	10,000	10,000
Culbertson School Dist 17	32	0	0	0	10,000	10,000
Culbertson School--Armory	31	650	0	0	0	650
Darby School Dist. #9	16	0	0	5,100	0	5,100
	36	0	0	7,700	0	7,700
Beaverhead Co. H.S.--Dillon	16	0	0	8,000	0	8,000
Lincoln Co H.S.--Eureka	18	0	0	0	12,000	12,000
Sch Dist #7 & H.S. #3 Flaxvil	31	0	0	8,000	0	8,000
Florence-Carlton School Dist.	52	400	0	0	0	400
Frenchtown School Dist. 40	47	0	0	8,000	0	8,000
	37	0	0	8,000	0	8,000
Geyser School Dist # 58	24	0	0	8,500	0	8,500
MT School for Deaf/Blind--GF	17	560	0	0	0	560
Hay High School--Hays	20	0	0	5,000	0	5,000
Lodgepole Elem. Sch.	20	0	2,500	0	0	2,500
Sch. Dist. #28--Highwood	19	300	0	0	0	300
Hobson Public School	23	0	0	0	10,000	10,000
Hot Springs School Dist.	29	0	0	0	10,000	10,000
(continued next page)	14	1,000	0	0	0	1,000

SCHOOL HEATING OIL TANKS OVER 15 YEARS OF AGE

school	age	capacity				TOTAL capacity
		up to 1,100	1,101 to 4,999	5,000 to 9,999	10,000 and up	
West Valley Sch. Dist. #1-Kal.	28	1,000	0	0	0	1,000
Kila School	34	500	0	0	0	500
Central School--Libby	21	1,000	0	0	0	1,000
Asa Wood School--Libby	24	0	0	0	10,000	10,000
McGrade School--Libby	24	0	0	0	10,000	10,000
Plummer School--Libby	24	0	0	0	10,000	10,000
Libby Sr. H.S.	20	0	0	0	10,000	10,000
Lima Public Schools	23	0	0	0	10,000	10,000
Medicine Lake Public Schools	19	0	0	0	10,600	10,600
Sch. Dist. #5--Melrose	unk	0	0	8,000	0	8,000
Moore Pub Sch Housing Unit #1	34	200	0	0	0	200
Moore Pub Sch Housing Unit #2	24	200	0	0	0	200
Noxon School Dist. #10	19	1,000	0	0	0	1,000
Outlook School Dist. #29	24	0	0	0	10,000	10,000
North of Pablo School	24	0	0	8,000	0	8,000
School Dist #1--Plains	24	0	0	0	10,000	10,000
Polson Middle School	23	0	0	8,000	0	8,000
East of Ronan Middle School	34	0	0	0	10,000	10,000
	16	0	4,000	0	0	4,000
	16	0	4,000	0	0	4,000
Ryegate Public School	16	0	4,000	0	0	4,000
Seeley-Swan High School	26	0	0	0	10,000	10,000
Somers School Dist. 29	27	0	0	0	10,000	10,000
St. Regis Public Schools	29	0	0	7,500	0	7,500
Sch. Dist. #12--Stanford	19	0	0	0	10,000	10,000
Superior School Dist. #3	24	0	0	8,500	0	8,500
	19	0	0	6,500	0	6,500
	34	0	0	6,500	0	6,500
	19	0	0	8,500	0	8,500
School Dist #73--Swan Lake	19	100	0	0	0	100
Elem. School--Thompson Falls	39	0	0	0	12,000	12,000
School Dist #13--Toston	24	500	0	0	0	500
Trout Creek Sch. Dist #6	19	1,000	0	0	0	1,000
Two Dot School Dist #15	34	1,000	0	0	0	1,000
Ulm Public School	29	500	0	0	0	500
	24	500	0	0	0	500
Vida Elem. School yard	24	1,000	0	0	0	1,000
	20	1,000	0	0	0	1,000

(continued next page)

Ex. 15
3-14-91
HB 973

SCHOOL HEATING OIL TANKS OVER 15 YEARS OF AGE

School	age	capacity				TOTAL capacity
		up to 1,100	1,101 to 4,999	5,000 to 9,999	10,000 and up	
School Dist #69-W.Yellowstone	21	0	0	5,000	0	5,000
	21	0	0	0	10,000	10,000
	21	0	0	0	10,000	10,000
Small Consolidated Schools	24	0	0	0	10,000	10,000
Mnett Sch. Dist #1 & 159	16	1,000	0	0	0	1,000
	38	0	2,000	0	0	2,000
al. Dist. #16--Wisdom	34	1,000	0	0	0	1,000
Big School Dist. #25	24	500	0	0	0	500
School Dist. #24--Worden	22	0	0	7,500	0	7,500
	24	0	0	6,000	0	6,000
	34	0	0	9,000	0	9,000
	24	0	0	6,000	0	6,000
TOTALS	97	24,970	23,500	198,900	274,600	521,970

Information Compiled Dec. 28, 1990

CONFIRMED RELEASES OF HEATING OIL TANKS

After April 13, 1989

FACILITY ID #	FACILITY NAME	TOWN	CONFIRMED CLEANUP		UNDER CONTROL	GROUND WATER IMPACT	DATE CLEANUP COMPLETED	TANK SIZE (GALLONS)	CONTENTS	COSTS
			RELEASE DATE	INITIATED X						
50-03600	DUTTON PUBLIC SCHOOLS	DUTTON	89/05/08	X	X		11-7-90	8300	HEAT OIL	N/A
	BROWNING SCHOOL	BROWNING	89/07/17	X	X			N/A	HEAT OIL	UNKNOWN
31-03620	JOINT SCHOOL DISTRICT #2	ALBERTON	89/08/22	X	X		12-13-89	8000	HEAT OIL	N/A
02-02156	U.S. POST OFFICE	LODGE GRASS	89/08/28	X	X	X		1000	HEAT OIL	UNKNOWN
51-01699	SHELBY SCHOOL DIST.	SHELBY	89/08/89	X	X			1000	HEAT OIL	UNKNOWN
56-01187	CORETTE PLANT	BILLINGS	89/10/13	X	X	X		8000	HEAT OIL	N/A
24-05316	HARBOUR PHARMACY	POLSON	89/12/08	X	X			550	HEAT OIL	UNKNOWN
18-08076	PIEGAN BORDER STATION	BABB	89/12/21	X	X		5-15-90	4000	HEAT OIL	N/A
23-05904	HOBSON SCHOOLS	HOBSON	90/01/31	X	X	X		10000	HEAT OIL	N/A
07-11375	KEIN RADIO	GREAT FALLS	90/02/02	X	X	X	1-2-91	560	HEAT OIL	UNKNOWN
24-02867	CHERRY VALLEY SCHOOL	POLSON	90/02/02	X	X		11-20-90	4000	HEAT OIL	N/A
44-00701	ST. LABRE INDIAN SCHOOL	ASHLAND	90/02/07	X	X			550	HEAT OIL	UNKNOWN
07-11399	JANETSKI, LEE	GREAT FALLS	90/03/02	X	X			500	HEAT OIL	UNKNOWN
31-01518	SUPERIOR HIGH SCHOOL	SUPERIOR	90/03/15	X	X	X		10000	HEAT OIL	\$43856 EST
56-08299	KEMBEL, REINHOLD	BILLINGS	90/04/12	X	X	X		560	HEAT OIL	UNKNOWN
07-11290	BUILDING 2040	GREAT FALLS	90/04/23	X	X	X		550	HEAT OIL	UNKNOWN
46-01238	PETERSON'S READY TO WEAR	PLENTYWOOD	90/04/24	X	X		5-9-90	1000	HEAT OIL	UNKNOWN
08-10764	WELTY, W.A.	FORT BENTON	90/05/10	X	X		5-16-90	560	HEAT OIL	UNKNOWN
10-01250	PIONEER INN	SCOBEY	90/06/04	X	X	X		12000	HEAT OIL	N/A
24-06496	ST. JOSEPH CONVALESCENT	POLSON	90/06/16	X	X			1500	HEAT OIL	N/A
04-00335	AMERICAN FEDERAL SAVINGS	TOWNSEND	90/06/19	X	X			550	HEAT OIL	UNKNOWN
32-09923	SUN MOUNTAIN SPORTS	MISSOULA	90/07/03	X	X		8-10-90	1000	HEAT OIL	UNKNOWN
01-05876	CORR, JAMES	DILLION	90/07/16	X	X			300	HEAT OIL	UNKNOWN
46-00157	OUTLOOK SCHOOL	OUTLOOK	90/07/17	X	X	X		10000	HEAT OIL	N/A
46-00646	FULKERSON, DAVID	PLENTYWOOD	90/08/10	X	X			500	HEAT OIL	UNKNOWN
04-03309	BROADWATER CTY. HIGH	TOWNSEND	90/08/22	X	X	X		10000	HEAT OIL	N/A
16-03726	DE JONG, JAMES	MANHATTAN	90/08/30	X	X			500	HEAT OIL	UNKNOWN
14-11588	KNOX, DONALD	LEWISTOWN	90/09/11	X	X		1-21-91	500	HEAT OIL	UNKNOWN
28-07067	FISH HATCHERY	ENNIS	90/09/19	X	X		11-19-90	560	HEAT OIL	UNKNOWN
15-09431	BIG CREEK WORK CENTER	COLUMBIA FALLS	90/09/28	X	X			700	HEAT OIL	UNKNOWN
32-11230	KAMMERER, W.	CLINTON	90/09/30	X	X	X		550	HEAT OIL	UNKNOWN
07-08054	KOHUT AND SONS	STOCKETT	90/10/16	X	X			500	HEAT OIL	UNKNOWN
07-08958	BUILDING 1089	GREAT FALLS	90/10/18	X	X			2000	HEAT OIL	N/A
51-01236	ZELL, R.	SHELBY	90/10/23	X	X		1-10-90	500	HEAT OIL	UNKNOWN
07-08786	VAUGHN JUNCT. RADIO BLDG.	VAUGHN	90/10/31	X	X			1000	HEAT OIL	UNKNOWN
09-00256	HOLY ROSARY HOSPITAL	MILES CITY	90/11/05	X	X			12000	HEAT OIL	N/A
25-00043	BUREAU OF RECLAMATION	HELENA	90/11/07	X	X			500	HEAT OIL	UNKNOWN
32-12066	FRONT STREET VENTURES	MISSOULA	90/11/07	X	X			1000	HEAT OIL	UNKNOWN
56-04326	SCHOOL DISTRICT #24	WORDEN	90/11/12	X	X	X		9000	HEAT OIL	N/A
40-03735	TIBBETTS, R.L.	TERRY	90/11/21	X	X			500	HEAT OIL	UNKNOWN
22-06917	HAMIL, JOHN	CLANCY	90/12/03	X	X		12-3-90	500	HEAT OIL	UNKNOWN
31-01518	SUPERIOR ELEM. SCHOOL	SUPERIOR	90/12/03	X	X			10000	HEAT OIL	N/A
48-05244	12MILES N OF TOWN	COLUMBUS	90/12/04	X	X		1-9-91	1000	HEAT OIL	UNKNOWN
47-10132	ST. JAMES COMMUNITY HOSP.	BUTTE	90/12/10	X	X			3000	HEAT OIL	N/A
93-11987	LOHSE, RONALD	FORT BENTON	90/12/10	X	X		12-28-90		HEAT OIL	UNKNOWN
15-11778	ARMY RESERVE	KALISPELL	90/12/11	X	X			1500	HEAT OIL	N/A
21-00034	ROCKY BOY SCHOOL	BOX ELDER	90/12/14	X	X	X		10000	HEAT OIL	N/A
01-11237	BEAVERHEAD CTY. MUSEUM	DILLION	90/12/21	X	X			300	HEAT OIL	UNKNOWN
38-02465	VALLEY MOTOR SUPPLY	BROADUS	90/7/30	X	X			1000	HEAT OIL	UNKNOWN
06-00863	HOSPITAL, COURTHOUSE	EKALAKA	91/01/03	X	X			300	HEAT OIL	UNKNOWN
32-06383	FRENCHTOWN	FRENCHTOWN	91/01/07	X	X			8000	HEAT OIL	N/A
08-00868	WORRALL, JAY	LOMA	91/01/10	X	X			1000	HEAT OIL	UNKNOWN

TOTAL NUMBER=

52

EXHIBIT 15
 DATE 3-14-91
 HB 973

CONFIRMED RELEASES OF FARM AND RESIDENTIAL TANKS AFTER APRIL 13, 1989

FACILITY ID #	FACILITY NAME	TOWN	CONFIRMED RELEASE DATE	TANK SIZE (GALLONS)	CONTENTS	COSTS
25-03651	CHEVALLIER RANCH	CANYON CREEK	90/02/05	500	GASOLINE	
26-10699	LYBECK, CLIFFORD	CHESTER	91/01/11	1000	DIESEL	
50-01227	ANDERSON, RAYMOND	CHOTEAU	90/01/24	215	GASOLINE	
22-03897	WING, J.A.	CLANCY	90/06/25	560	GASOLINE	
48-05244	12 MILES N. OF TOWN	COLUMBUS	90/12/04	1000	GASOLINE	
18-01962	GLACIER FARMS	CUT BANK	90/10/26	1000	GASOLINE	
39-11319	B.P.O.E.	DEER LODGE	90/06/22	500	GASOLINE	
01-04480	MATADOR CATTLE	DILLION	90/12/14	500	GASOLINE	
01-07061	PFIZER INC.	DILLION	90/07/09	1000	GASOLINE	
01-01596	PFIZER INC.	DILLION	90/03/23	500	GASOLINE	
21-05225	SANDS RANCH AIRPORT	HAVRE	90/08/24	300	GASOLINE	
25-00346	ROGERS, NORMAN	HELENA	91/01/03	1000	GASOLINE	
23-10683	HENKE, RICHARD	HOBSON	90/03/30	500	GASOLINE	
26-00805	MAY FARMS	JOPLIN	91/01/11	1000	GASOLINE	
15-03078	BRENNEMAN FARM	KALLISPELL	89/12/12	1000	GASOLINE	
11-03935	D.H. RANCH	LAMBERT	90/06/20	550	GASOLINE	
56-04577	LOEWEN, DAVID	LAUREL	90/05/09	1000	GASOLINE	
14-04865	HWY 87, WEST OF TOWN	LEWISTOWN	90/12/11	1000	GASOLINE	
11-08239	DEMPEWOLF	LINDSAY	91/02/20	500	GASOLINE	
34-11238	QUISEL, TODD	LIVINGSTON	90/05/29	500	DIESEL	
08-00868	WORRALL, JAY	LOMA	91/01/10	1000	DIESEL	
45-02758	BRAS, LANDO	LONEPINE	90/04/25	500	GASOLINE	
05-07901	T6S R18E SEC23	LUTHER	90/11/13	500	GASOLINE	
10-03178	DANELSON, STANTEN	SCOBAY	90/12/03	1000	GASOLINE	
51-01236	ZELL, RAWLIN	SHELBY	90/10/24	500	GASOLINE	
42-02987	DIGE, ARNOLD	SIDNEY	90/12/21	560	DIESEL	
42-04826	SOUTH OF SIDNEY	SIDNEY	90/12/27	560	GASOLINE	
07-08054	KOHUT	STOCKETT	90/11/19	500	DIESEL	
16-05726	SMITH, WALTER	THREE FORKS	90/10/03	575	GASOLINE	
37-04296	CRAWFORD AND ADAMS INC.	VALIER	90/07/20	500	GASOLINE	
15-03707	U TRIANGLE RANCH	WHITEFISH	90/09/28	500	GASOLINE	
22-04807	FARM TANKS IN TOWN	WHITEHALL	90/12/28	500	GASOLINE	
16-05578	HENDRICKSON, HENRY	WILLSALL	90/05/15	500	GASOLINE	

TOTAL NUMBER OF TANKS 33

ESTIMATED NUMBER 50

Testimony House Bill 973
Petroleum Tank Release Compensation Board
By: Jean Riley, Executive Director

The Petroleum Tank Release Compensation Board (Board) supports House Bill 973. The Board has, in the past, received several requests from heating oil tank owners for reimbursement from the Petroleum Tank Release Cleanup Fund. The present statute does not allow owners of heating oil tanks or small farm or residential tanks to receive reimbursement. The Board has assisted Representative Stang on the drafting of House Bill 973 and feels that this would be a viable mechanism to help the heating oil and small farm or residential tank owner with the cleanup costs associated with a release from a petroleum storage tank. The Board feels that if these tanks were to be covered, then they should be required to pay into a fund similar to the present Petroleum Tank Release Cleanup Fund. The Small Petroleum Tank Release Cleanup Fund would be set up similar to the present fund and similarly administered.

The reasoning behind the two funds is that the present fund has been approved by the Federal EPA as a financial assurance mechanism of commercial tank owners. I have talked to EPA concerning the merging of the two funds and their statement was that the increased number of tanks could jeopardize the EPA approval of the present fund. This would leave the commercial tank owners without the financial assurance that is required by the Federal EPA.

The Board has also assisted Representative Stang with the proposed amendments to House Bill 973 and are in full agreement with these amendments. I would like to again state that the Petroleum Tank Release Compensation Board supports House Bill 973 and the amendments.

Date submitted: 3/14/91

HB 973

Ben Havdahl, Montana Motor Carriers

Mr. Chairman, members of the Committee. For the record I am Ben Havdahl representing the Montana Motor Carriers. MMCA is opposed to the increase in the diesel fuel by one cent per gallon proposed to be assessed in HB 973 to establish a small petroleum tank release cleanup fund.

MMCA represents some 300 motor carriers ranging in size from one truck operators to carriers with fleets of 400 plus trucks. Also MMCA has a log truckers conference with about 200 log truck members most of whom are single truck owner operators.

A large percentage, probably over half, of those carriers purchase their fuel at the pump and do not have underground or above ground storage tanks. The other half have fuel storage tanks. The proposed tax increase in the bill will be assessed on all the carriers regardless of whether they are a potential contributor to a diesel fuel tank leak or not. This is unfair.

I would point out that diesel fuel taxes in Montana have almost doubled since 1982, from 11 cents per gallon to 20 cents today. Federal diesel taxes have also increased during that period at an even faster rate rising from four cents per gallon in 1982 to 20 cents today, an increase of 500%.

Total state and federal diesel fuel taxes paid by motor carriers at a rate of 40 cents per gallon is fast approaching or exceeding 50% of the price of diesel fuel at the pump. (1.18 price of diesel minus .40 tax = .78, the selling price of which .40 is 51%)

Diesel fuel taxes are a major source of highway revenue in Montana. It has been pointed out by the Department of Highways that the Reconstruction Trust Fund will see \$45 million deficit by 1995 and the 1993 Legislature will have to consider major increases in all highway user taxes including diesel fuel.

We would question the use of diesel fuel taxes under HB 973, as for a non highway use. Its use to fund the petroleum tank release clean up fund is in our view a violation of the anti diversion amendment to the Montana Constitution. And even if presumably a three fifths vote can be achieved, we question the wisdom of a policy for the proposed funding at the expense of the highway program in the State.

On a final point, Section 8 of the bill specifically exempts from the one cent per gallon diesel fuel tax, special fuels sold to a railroad. MMCA has a problem with this exemption.

The tax increase on truckers, discriminates against the only competitive mode of transportation the rails have in Montana. Any cost increase to truckers transforms to increase profits to the rail roads where competition exists. Secondly, diesel fuel spills from railroad tanks contaminate the environment just as much as diesel leaks from truckers' storage tanks.

We would respectfully suggest that if this legislation is given serious consideration everyone who has the potential for releasing diesel fuel from tanks, including railroads, should be included in the payment of the tax for insurance to provide the clean up. If not then none should be included.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

1062

TAXATION COMMITTEE BILL NO. HB 973
 DATE 3/14/91 SPONSOR(S) Rep. Stang

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Gordon Morris	MACo.	973		X
Milton Markeson ^{Carter County}	Carter Co Comm.	973		X
MARVIN MUSALL	H.M.S. CARTER CO	973		X
Genna Alexander	mt. Petroleum Marketers	973		X
Jean Riley	Mt Petro. Tank Release Camp Board	973		X
Ray McKenna	MACSS	973		X
Alan Hobbs	Montano Refining Co.	973		X
FRED MAKER	Superior Salt Dist	973		X
John W. Herrin	Consultant to Carter Co.	973		X
Mark Johnson	Matney-Frantz Engineering	973		X
Ben Haddrell	MT. Motor Carriers	973	X	
Chris Kaufmann	MEIC	973		X
Bill Donahue	Sup. of Schools Libby	973		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
 ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

2 of 2

TAXATION COMMITTEE BILL NO. HR 973
 DATE 3-14-91 SPONSOR(S) Rep Saxton

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
John GEACH	DEPT. OF HEALTH & F.S.	973	INFORMATION	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
 ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By DAN HARRINGTON, CHAIR, on March 22, 1991, at 9:00 a.m.

ROLL CALL

Members Present:

Dan Harrington, Chairman (D)
Bob Ream, Vice-Chairman (D)
Ben Cohen, Vice-Chair (D)
Ed Dolezal (D)
Jim Elliott (D)
Orval Ellison (R)
Russell Fagg (R)
Mike Foster (R)
Bob Gilbert (R)
Marian Hanson (R)
David Hoffman (R)
Jim Madison (D)
Ed McCaffree (D)
Bea McCarthy (D)
Tom Nelson (R)
Mark O'Keefe (D)
Bob Raney (D)
Ted Schye (D)
Barry "Spook" Stang (D)
Fred Thomas (R)
Dave Wanzenried (D)

Staff Present: Lee Heiman, Legislative Council
Lois O'Connor, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON SJR 15

Presentation and Opening Statement by Sponsor:

SEN. VAUGHN, Senate District 1, Libby, stated the federal government takes the social security funds and transfers the amount from where they are now and puts them into a fund to be reserved for what the purpose was set up for. It is not only important for the people who are drawing social security now, but it is very important for those who are looking at social security in the future as to whether there will money in the fund for them to use.

EXECUTIVE ACTION ON HB 832

Motion: REP. ELLIOTT MOVED HB 832 DO PASS.

Motion: REP. ELLISON moved to amend HB 832. EXHIBIT 11

Discussion:

REP. REAM said that the Income/Severance Tax Subcommittee recommended to adopt REP. BROWN'S and REP. ELLISON'S amendments.

Vote: Motion to amend HB 832 carried unanimously.

Motion/Vote: CHAIR HARRINGTON MADE A SUBSTITUTE MOTION THAT HB 832 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 809

Motion/Vote: REP. GILBERT MOVED HB 809 BE TABLED. Motion carried 16 to 5 with REPS. O'KEEFE, WANZENRIED, COHEN, REAM, and HARRINGTON voting no.

EXECUTIVE ACTION ON HB 929

Motion/Vote: REP. STANG MOVED HB 929 BE TABLED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 973

Motion: REP. STANG MOVED HB 973 DO PASS.

Motion: REP. STANG moved to amend HB 973. EXHIBIT 12

Discussion:

REP. REAM said the Income/Severance Tax Subcommittee voted 8 to 1 Do Pass.

Vote: Motion to amend HB 973 carried unanimously.

Motion/Vote: CHAIR HARRINGTON MADE A SUBSTITUTE MOTION THAT HB 973 DO PASS AS AMENDED. Motion carried 17 to 4 with REPS. GILBERT, M. HANSON, ELLIOTT, and McCaffree voting no.

EXECUTIVE ACTION ON HB 790

Motion: REP. REAM MOVED HB 790 DO PASS.

Motion: REP. REAM moved to amend HB 790. EXHIBIT 13

Discussion:

REP. REAM stated that on Page 2, Line 16, reinsert "home health

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE 3/22/91

NAME	PRESENT	ABSENT	EXCUSED
REP. DAN HARRINGTON	✓		
REP. BEN COHEN, VICE-CHAIRMAN	✓		
REP. BOB REAM, VICE-CHAIRMAN	✓		
REP. ED DOLEZAL	✓		
REP. JIM ELLIOTT	✓		
REP. ORVAL ELLISON	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. BOB GILBERT	✓		
REP. MARIAN HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. JIM MADISON	✓		
REP. ED MCCAFFREE	✓		
REP. BEA MCCARTHY	✓		
REP. TOM NELSON	✓		
REP. MARK O'KEEFE	✓		
REP. BOB RANEY	✓		
REP. TED SCHYE	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. FRED THOMAS	✓		
REP. DAVE WANZENRIED	✓		

all here

Amendments to House Bill No. 973
First Reading Copy

Requested by Rep. Stang
For the Subcommittee on Income Taxes

Prepared by Lee Heiman
March 18, 1991

1. Page 6, lines 2 and 3.
Strike: "or licensed to sell special fuels as provided by 15-70-302"
2. Page 10, lines 24 and 25.
Strike: "July 1, 1991."
Insert: "[the effective date of this section]"
3. Page 11, line 16.
Strike: "July 1, 1991"
Insert: "April 13, 1989"
4. Page 12, line 6.
Strike: "i:"
5. Page 12, lines 7 through 12.
Strike: "(i)" on line 7
Strike: "for" on line 7 through fund on line 12
6. Page 12, lines 22 and 23.
Following: "(2)"
Insert: "(a)"
Following: "~~net~~"
Insert: "not"
Strike: "i:" on line 23
7. Page 12, line 24.
Strike: "(a)"
Following: "fund"
Insert: "or the small petroleum tank release cleanup fund"
8. Page 12, line 25.
Following: "~~following~~"
Insert: "the following"
9. Page 13, line 1.
Strike: "with the following exceptions"
10. Page 13, lines 9 through 13.
Strike: subsection (v) in its entirety
Renumber: subsequent subsections
11. Page 13, line 20.
Strike: "; or"
Insert: "."

12. Page 13, line 21.

Following: "(b)"

Insert: "An owner or operator is not eligible for reimbursement"

Strike: "small"

13. Page 13, line 23.

Strike: "only"

14. Page 14.

Following: line 3

Insert: "(c) An owner or operator is eligible for reimbursement from the small petroleum tank release cleanup fund for expenses caused by releases from petroleum storage tanks listed in subsection (2)(b) only."

15. Page 18, line 24.

Strike: "tanks"

Insert: "claims and complexity of claims"

16. Page 19, line 1.

Strike: "tanks"

Insert: "claims and complexity of claims"

17. Page 20, line 15.

Strike: "tanks"

Insert: "claims and complexity of claims"

18. Page 20, line 17.

Strike: "tanks"

Insert: "claims and complexity of claims"

19. Page 21.

Following: line 10

Insert: "(5)(a) The legislature may appropriate to the small petroleum tank release cleanup fund repayable advances from the petroleum tank release cleanup fund as necessary to carry out the administrative needs of this part. The outstanding total repayable advances may not exceed the amount the board estimates will be received by the fund from the small petroleum storage tank cleanup fee during the next 4 months.

(b) Whenever determined appropriate by the board, advances to the small petroleum tank release cleanup fund must be repaid with interest at a rate equal to the average short-term investment pool portfolio 7-day average yield for the months in which the loan is outstanding. All advances to the fund, plus interest, must be repaid before January 1, 1994."

20. Page 22, line 1.

Strike: "and"

21. Page 22.

Following: line 1

Insert: "(b) special fuels sold to the federal government;

(c) special fuels sold to another gasoline distributor
licensed under 15-70-201; and"
Renumber: subsequent subsection

22. Page 22, line 3.
Following: "oil"
Insert: "or waste oil"

23. Page 23, line 23.
Following: "expenses"
Strike: "and"
Insert: ", "

24. Page 24, line 2.
Following: "part"
Insert: ", and to pay for department of revenue staff utilized
for the collection of the petroleum storage tank cleanup fee
and the small petroleum storage tank cleanup fee"

25. Page 26, line 23.
Following: line 22
Insert: "NEW SECTION. Section 12. Report to legislature. The
petroleum tank release compensation board shall report to
the 53rd legislature a proposal for consolidation of the
petroleum tank release cleanup fund and the small petroleum
tank release cleanup fund and for consolidating the
administration of the programs."
Renumber: subsequent sections

26. Page 27, line 10.
Following: "10,"
Strike: "12"
Insert: "13, 14"

27. Page 27, line 12.
Following: "8"
Insert: ", "
Strike: "and"
Following: "11"
Insert: ", and 12"

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on April 10, 1991, at 7:00 a.m.

ROLL CALL

Members Present:

Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
John Harp (R)
Francis Koehnke (D)
Gene Thayer (R)
Thomas Towe (D)
Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused: None

Staff Present: Jeff Martin (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON HOUSE BILL 795

Presentation and Opening Statement by Sponsor:

Rep. Harper, District 44, said this bill addresses the infrastructure needs of the state. He said everyone agrees with the Governor that there are tremendous infrastructure needs in the state. His testimony is contained in Exhibit #1. Rep. Harper also presented proposed amendments as per Exhibit #2. he noted a 3/4 vote is not necessary because the bill only directs the spending of interest rather than the coal trust fund principal. He said this approach is fiscally conservative and responsible. As supporting material, Rep. Harper presented a spread sheet from the Office of Budget and Program Planning (Exhibit #3).

Senator Thayer asked who would make the decision to grant and to which project. Is this a legislative or Department of Commerce decision.

Rep. Harper said it should be decided by both. The legislature should be involved and he said that is addressed in the material he presented at the opening of the hearing.

Senator Gage asked if there would be an exemption from I105 granted for bond repayment.

Rep. Harper replied that is a problem all over the state. He didn't think it was addressed in the Governor's bill either. He was concerned about where to obtain the matching money.

Closing by Sponsor:

Rep. Harper closed by saying it is good to see there is a degree of trust and confidence in the bureaucracy. He said he didn't feel ready to turn over this large amount of money to any department of state government without legislative oversight. The bill is focused on specific needs with a specific plan for action which is conservative and responsible.

Senator Halligan said he will assign HB 795 to a subcommittee for further study.

HEARING ON HOUSE BILL 973

Presentation and Opening Statement by Sponsor:

Rep. Stang, District 52, said the bill creates a small petroleum tank release clean-up fund. He presented data on storage tanks for the committee's consideration (Exhibits #17 and #18). He warned against combining this fund the already established large tank clean-up fund as EPA funding would probably be discontinued. He said the people who oppose the bill are getting a free ride in the large tank fund. He urged the committee to adopt the bill as it will protect the environment and drinking water.

Proponents' Testimony:

Fred Maker, Superintendent of the Superior School District, told of the major leak in one of the school tanks which released 12-13,000 gallons of heating oil. They had to hire very high priced consultants to clean it up. The cost of materials was very high and the school district had absolutely no control over the prices and what had to be done in the clean-up process. With

450 mills in taxes for schools and county expenses and a 13% unemployment rate, more expense just cannot be assumed. He noted if Rep. Stang, Mr. Wittich, and the Governor had not helped, the school district staff would have been cut by 50% due to the extremely high cost of clean-up. He said Ekalaka has the same problem on a county level with no access to an emergency levy such as the schools can use.

Steve Visocan, Past President, Petroleum Marketers Association, said he was involved with the previous tank legislation. It has worked very well and he would be happy to answer any questions the committee might have.

Gordon Morris, Montana Association of Counties, expressed support for the bill.

Wendy Oberg, Montana Solid Waste Contractors, expressed support for the bill.

Jean Riley, Executive Director, Petroleum Tank Release Compensation Board, presented her testimony in support of the bill (Exhibit #19).

Christine Kaufman, Environmental Information Center, said the existing clean-up fund is for both gasoline and diesel tanks over 1100 gallons which is funded by gas revenue only. It provides protection mainly for gas stations. The average cost for a leak is \$140,000. It only takes a gallon of diesel or gasoline to contaminate 1 million gallons of drinking water.

Opponents' Testimony:

Ben Havdahl, Montana Motor Carriers, presented his testimony in opposition to the bill (Exhibit #20).

Lorna Frank, Montana Farm Bureau, said the bill should be reviewed on page 13, line 25, and page 14, lines line 5-13 for language changes without which the bill may be discriminatory. She was concerned that the one cent fee on taxes from gas or diesel fuel should go to the highway reconstruction fund.

Bob Stevens, Montana Graingrowers and Wife, questioned why railroads are excluded. He said the agriculture economy is in trouble and yet ag tanks are excluded.

Questions From Committee Members:

Senator Towe said the concern of the opponents makes it clear that the old fund cannot be used for the new fund.

Senator Thayer asked how much money is in the old fund.

Jean Riley said there is \$6.5 million in the old fund. The fee collection goes off in October and will off until the balance drops below \$4 million. The EPA will not allow anything else to be attached to the old fund due to the unknown amount of tanks that may need to be covered.

Senator Doherty asked what tanks are covered under this bill.

Rep. Stang said it should cover all the tanks in the state, especially for farms, ranches and small businesses. The owners cannot sell property if there is a leak and it is not fixed.

Senator Towe said the railroad exclusion is a valid concern.

Rep. Stang replied, "if we included railroads the fund would be broke tomorrow". There is just no way to afford to clean up their spills.

Mr. Havdahl felt there would be no problem with including them if they are taxed.

Senator Towe said what they contributed in taxes would be a lot less than what they would take out.

Havdahl doesn't know how much diesel the railroads purchase in the state.

Closing by Sponsor:

Rep. Stang closed.

HEARING ON HOUSE BILL 1012

Presentation and Opening Statement by Sponsor:

Rep. Elliott, District 51, said cigarettes in Montana are sold to members of Indian tribes tax free. In Montana there is a significant loss of tax revenue because of sales to non-tribal members. Since 1979 the sale of tax free cigarettes has gone from 4% of total cigarettes sold to 29%. He said he is not trying to contest federal statutes or opinions that tribal members cannot be taxed. The issue is recovering the tax that is avoided by in state and out of state purchasers of non-tax cigarettes. We are losing tax revenue because a misdemeanor is being committed when cigarettes which are not stamped are purchased by non-tribal members. Of the 29% of the tax free cigarettes sold in Montana which amounts to 23.5 million packs, 83% are sold on the Flathead Indian reservation. This would amount to 4,582 packs per tribal member. Even the tourist

Testimony House Bill 973
Petroleum Tank Release Compensation Board
By: Jean Riley, Executive Director

The Petroleum Tank Release Compensation Board (Board) realizes the need for House Bill 973. The Board has, in the past, received several requests from heating oil tank owners for reimbursement from the Petroleum Tank Release Cleanup Fund. The present statute does not allow owners of heating oil tanks or small farm or residential tanks to receive reimbursement. The Board has assisted Representative Stang on the drafting of House Bill 973 and feels that this would be a viable mechanism to help the heating oil and small farm or residential tank owner with the cleanup costs associated with a release from a petroleum storage tank. The Board feels that if these tanks were to be covered, then they should be required to pay into a fund similar to the present Petroleum Tank Release Cleanup Fund. The Small Petroleum Tank Release Cleanup Fund would be set up similar to the present fund and similarly administered.

The reasoning behind the two funds is that the present fund has been approved by the Federal EPA as a financial assurance mechanism of commercial tank owners. I have talked to EPA concerning the merging of the two funds and their statement was that the increased number of tanks could jeopardize the EPA approval of the present fund. This would leave the commercial tank owners without the financial assurance that is required by the Federal EPA. However, EPA feels that after a period of time the two funds may be combined. Therefore, the amendment concerning the consolidation of the two funds is not a concern.

The Board also assisted Representative Stang with the other incorporated amendments to House Bill 973 and are in full agreement with these amendments. I would like to again state that the Petroleum Tank Release Compensation Board realizes the need for House Bill 973 as presented and feels that this is a viable mechanism to assist small petroleum tank and heating oil tank owners with the costs associated with cleanup of releases and third party damages for property damage or bodily injury.

The Department of Health and Environmental Sciences Underground Storage Tank Program staff are available to answer questions concerning releases from these types of tanks.

Date submitted: 4/10/91
HB 973 - Senate Taxation Committee
Ben Havdahl, Montana Motor Carriers

Mr. Chairman, members of the Committee. For the record I am Ben Havdahl representing the Montana Motor Carriers. MMCA is opposed to the increase in the diesel fuel tax by one cent per gallon proposed in HB 973 to finance a small petroleum tank release cleanup fund.

MMCA represents some 300 plus motor carriers ranging in size from one truck operators to carriers with fleets of 400 plus trucks. Also MMCA has a log truckers conference with about 200 log truck members most of whom are single truck owner operators.

A large percentage, probably over half, of those carriers purchase their fuel at the pump and do not have underground or above ground storage tanks. The other half have fuel storage tanks. The proposed tax increase in the bill will be assessed on all the carriers regardless of whether they are a potential contributor to a diesel fuel tank leak or not. That is unfair.

The bill assess a one cent diesel fuel tax on all diesel fuel sold, including both highway and non highway diesel fuel, except diesel sold to railroads and the federal government. Highway diesel fuel accounts for about 35 to 40 percent of the fuel sold and non-highway diesel fuel about 60 to 65 percent.

Truckers will pay about \$1 million in taxes annually for each penny per gallon of highway diesel fuel tax and non-highway users will pay about \$1.8 million per penny of diesel fuel tax under the bill.

Diesel fuel taxes are a major source of highway revenue in Montana. It has been pointed out by the Department of Highways that the Reconstruction Trust Fund will see a \$45 million deficit by 1995 and the 1993 Legislature will likely have to consider major increases in all highway user taxes including diesel fuel. In addition if federal allocation of highway funds are reduced, the problem of highway funding will be further compounded.

I would point out that diesel fuel taxes in Montana have almost doubled since 1982, from 11 cents per gallon to 20 cents today. Federal diesel taxes have also increased during that period at an even faster rate rising from four cents per gallon in 1982 to 20 cents today, an increase of 500%.

Total state and federal diesel fuel taxes paid by motor carriers at a rate of 40 cents per gallon exceeds 50% of the price of diesel fuel at the pump. (1.18 price of diesel minus .40 tax = .78, the selling price of which the .40 tax is 51%)

The highway-user principle of taxation is a method of raising the money necessary to build and maintain roads in Montana----and only that. It has nothing to do with "social costs", however worthwhile, such as pollution and environmental damages as proposed in HB 973.

HB 973 Statement
Page 2

MMCA's policy has been supportive of reasonable fuel tax increases for highway purposes. I see no reason for that to change.

We would strongly question the use of diesel fuel taxes under HB 973, for a non highway use. Its use to fund the petroleum tank release clean up fund is, in our view, a violation of Section 6, the anti-diversion amendment in the Montana Constitution. Even if presumably a three fifths vote can be achieved, we question the wisdom of adopting such a policy for the proposed funding at the expense of the highway program in the State.

If this bill is passed by the Senate with less than a three fifths vote, then the entire burden for funding the small petroleum tank release cleanup fund under HB 973 will be borne by the non-highway user of diesel fuel including farmers, ranchers, contractors, loggers and others.

On a final point, Section 8 of the bill specifically exempts from the one cent per gallon diesel fuel tax, diesel fuels sold to a railroad. MMCA has a problem with this exemption.

The non highway tax increase on truckers, discriminates against the only competitive mode of transportation the rails have in Montana. Motor carrier rates for a particular item of freight form a cap on rail rates for that freight.

To the extent motor carriers costs are raised, their rates are effected. Rails can raise rates in a similar proportion without any increase in cost or efficiency. Any cost increase to truckers transforms to increase profits to the rail roads where competition exists.

Secondly, diesel fuel spills from railroad tanks contaminate the environment just as much as diesel leaks from truckers' storage tanks.

Notwithstanding these last two points, MMCA opposes the one cent per gallon diesel fuel tax increase and the diversion for non-highway use. Thank you.

EXECUTIVE ACTION ON HOUSE BILL 1012Amendments, Discussion, and Votes:

Eddye McClure, Legislative Council, presented proposed amendments to the committee (Exhibits #1 and #1a). She explained amendments #1a are modeled after SB 428 and would require the tax to be collected and negotiations to take place between the tribes and the state and establishing an immediate effective date. The amendments #1 would mandate negotiations between the tribes and the state and a report to the interim Committee on Indian Affairs before the tax is implemented and collected.

Senator Harp and Senator Towe said it is not reasonable to start collecting the tax and then negotiate the collection.

Senator Harp said a compromise was reached based on similar language in gas and severance tax bills. He said people are deliberately evading taxes and the situation needs to be brought under control.

Representative Elliott said the method used to collect taxes on non-Indians is being negotiated the first year. These people are already evading the tax. He said he would support the amendment.

The motion to adopt the amendments (#1a) FAILED on a roll call vote (attached).

Senator Harp moved to adopt the amendments as per Exhibit #1b (amendments numbered 101202).

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Harp moved HB 1012 Be Concurred In As Amended.

The motion CARRIED unanimously.

EXECUTIVE ACTION ON HOUSE BILL 973Motion:

Senator Brown moved to Reconsider action on HB 973.

The motion CARRIED unanimously.

Discussion:

Jeff Martin presented proposed amendments to the bill (Exhibit #2).

Jean Riley said the amendments would remove commercial diesel tanks from the present fund and cover all heating oil tanks and farm and residential tanks. There will be fees on all tanks but the commercial diesel tanks.

Senator Halligan asked what would be the effect of adopting amendment #8 only.

Rep. Stang said it would take longer to build up the fund by taking the truckers out of the fund. He said he does not want the amendments and would prefer to leave it the way it came to the Senate from the House.

Mr. Havdahl said the amendments are an overreaction to his testimony. He said they go far beyond what he advocated. The only concern he had was a question about using highway funds for the payment of the insurance fees for small tank clean up. He said the amendments are not in the best public interest for the protection of the environment.

Amendments, Discussion, and Votes:

Senator Eck moved to strip the Harp 50% - 50% amendments from the bill which were adopted in previous committee action on April 11.

The motion CARRIED with Senators Harp, Gage, Thayer, and Brown voting no.

Senator Doherty moved to amend the bill as per the amendments presented by Jeff Martin (Exhibit #2).

The motion CARRIED unanimously.

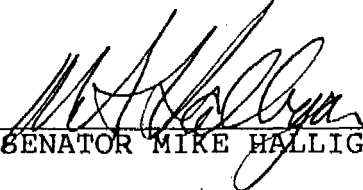
Recommendation and Vote:

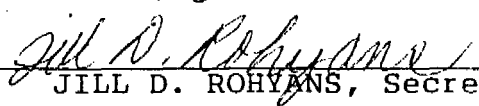
Senator Doherty moved HB 793 Be Concurred In As Amended.

The motion CARRIED unanimously.

ADJOURNMENT

Adjournment At: 9:20 a.m.


SENATOR MIKE HALLIGAN, Chairman


JILL D. ROHYANS, Secretary

MH/jdr

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 4/13/91

57nd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN	X		
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

Each day attach to minutes.

Amendments to House Bill No. 973
Third Reading Copy

For the Committee on Taxation

Prepared by Jeff Martin
April 11, 1991

1. Page 14, line 5.

Strike: "and"

2. Page 14, line 8.

Following: "purposes"

Insert: "; and

(iii) a tank used for storing diesel fuel sold as
motor fuel for commercial highway use"

3. Page 14, line 9.

Strike: "(C)"

Insert: "(3)"

4. Page 14, line 11.

Following: "FROM"

Insert: "the following"

5. Page 14, line 12.

Strike: "LISTED IN SUBSECTION (2)(B) ONLY"

Insert: ":

(a) a tank used for storing heating oil for
consumptive use on the premises where stored; and

(b) a farm or residential tank that is used for
storing motor fuel for noncommercial uses"

6. Page 21, line 7.

Strike: "(2)(b)"

Insert: "(3)"

7. Page 23, line 5.

Strike: "AND"

8. Page 23, line 6.

Following: "railroad"

Insert: "; and

(e) special fuels sold for highway use"